

JEMENA TERMS AND CONDITIONS – Request for Service (RFT)

1. OVERVIEW

1.1 RFQ DOCUMENTATION

This Request for Quotation (RFQ) is made up of the following parts:

- (a) the Schedules, which detail the information that must be provided by Respondents to Jemena as part of a Quotation; and
- (b) Attachments, which contain information to assist Respondents in preparing their Quotation.

It is the responsibility of Respondents to ensure that they have received all the above listed documentation.

Should Respondents identify any discrepancy or inconsistency between the RFQ Documents, Respondents must notify Jemena in writing of the details of the discrepancy or inconsistency, and Jemena will issue Amending Addenda to amend or clarify the RFQ Documents, in whole or in part, if required.

1.2 DEFINITIONS

The following definitions apply in this document:

Agreement means the contract to be entered into between the Contractor and Jemena, a draft of which is contained in the eProcure Pre-qualification submission. **Attachments** means the documents noted as annexures in this RFQ.

Amending Addenda means documents issued by Jemena under section 2.3 to amend or clarify this RFQ.

Business Day means a day that is not a Saturday, Sunday or gazetted public holiday in relevant capital city.

Claim includes any claim (including for payment of money (including damages)):

- (a) under, arising out of, or in any way in connection with, the RFQ; or
- (b) otherwise at law or in equity, including:
 - i. by statute;
 - ii. in tort or for negligence or otherwise, including negligent misrepresentation; or
 - iii. for restitution.

Contractor means the party entering into the Agreement with Jemena for the provision of the Goods/Services.

Goods means the products to be supplied by the Contractor, which are the subject of this RFQ.

Jemena means Jemena Limited and any other related Jemena entity.

Jemena's Associates means Jemena's employees, agents, consultants and advisers.

Personal Information means information or an opinion (including part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained (that is, any information that can be used to identify a person, including their name, address, telephone number or date of birth).

Price means the price, or the price determined by applying the formula or method, specified in the Quotation,

Respondent means any person who proposes to submit a Quotation and each person which submits a Quotation.

RFQ means this Request for Quotation for the supply of the Goods/Services.

RFQ Closing Date means the date listed in table under the heading Lodgement of Quotations in the "Important RFQ Information".

RFQ Documents means the documents provide by Jemena for the purpose of obtaining a Quotation, and comprise the documents detailed in section 1.3(a).

RFQ Information means all information, documentation, plans and schedules provided by or on behalf of Jemena to the Respondents including, without limitation, the information contained in the RFQ Documents, or subsequently provided to Respondents or any other person, whether orally or in documentary or electronic form by or on behalf of Jemena.

Services means the services to be performed by the Contractor, which are the subject of this RFQ

Quotation means the offer submitted by Respondents in response to this RFQ.

2. RFQ PROCEDURES

2.1 RFQ PROCESS

Subject to sections 2.3, 5.3 and 5.4 below, the RFQ process will be as follows:

- (a) RFQ issued;
- (b) enquiries / requests for information made by Respondents, if required;
- (c) Quotations lodged by RFQ Closing Date;
- (d) additional information sought, if required, by Jemena;
- (e) Quotations discussed with Respondents, as required, by Jemena;
- (f) without limiting section 2.6 "successful" Contractor notified and Agreement finalised;
- (g) unsuccessful Respondents notified; and
- (h) supply under the Agreement commences

2.2 AMENDMENT, SUSPENSION OR DISCONTINUATION OF THIS RFQ

Jemena, in its sole and absolute discretion and without recourse from any Respondent or any other third party, reserves the right to:

- (a) amend or clarify this RFQ and any of the RFQ Documents at any time;
- (b) suspend the RFQ process at any time; or
- (c) discontinue this RFQ.

2.3 AMENDING ADDENDA

To amend or clarify this RFQ in accordance with section 2.2(a), Jemena will issue Amending Addenda in identical form to each Respondent. Any Amending Addenda issued by Jemena will become part of the RFQ Documents.

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2.4 PROTECTION OF PERSONAL INFORMATION

Jemena collects any Personal Information sought in this RFQ for the purpose of determining a Respondent's suitability to provide the Goods/Services. Only Jemena's Associates who are responsible for evaluating Quotations will have access to Personal Information and may use the Personal Information to verify information provided by Respondents and to identify any adverse information not disclosed in a Quotation or that may affect a Respondent's ability to meet its contractual obligations.

To this end, Jemena may also use the Personal Information to obtain further information about a Respondent and/or any named individuals from publicly available records. Jemena will not disclose Personal Information to any other third party without a Respondent's consent, unless authorised or required by law. Jemena may also obtain information regarding Respondents credit history, officers and Directors from third parties, including credit reporting bodies (as defined in the Privacy Act)

It is the responsibility of Respondents to notify Jemena if their Personal Information requires updating.

2.5 INTELLECTUAL PROPERTY RIGHTS

Any intellectual property rights that exist in the RFQ Documents or any related material remain the property of Jemena. Respondents are permitted to use that information and material only for the purpose of compiling their Quotation.

2.6 NO AGREEMENT CREATED

No agreement or other legal relationship will be created in relation to this RFQ until the Agreement is executed by Jemena and the Contractor.

3. PREPARATION OF QUOTATIONS

3.1 REQUESTS FOR INFORMATION

Subject to section 2.1, Respondents may request further information or clarification of any matters in connection with this RFQ. In particular, all enquiries must be made using eProcure Portal. Enquiries not made using eProcure Portal may not be responded to by Jemena.

Website address: <https://www.eprocure.com.au/jemena/>
The last date for all enquiries is the final date on eProcure Portal

3.2 STATEMENT OF INTERPRETATION

If a Respondent makes a request for information under section 3.1 and is still in doubt as to the meaning of any part of this RFQ, the Respondent must include a statement of the interpretation it has relied upon in preparing its Quotation.

3.3 COMPLETENESS OF QUOTATIONS

Before submitting a Quotation, Respondents must ensure that:

- (a) Quotations are in English;
- (b) RFQ requirements are complied with; and
- (c) all information requested in the Schedules is provided.

Conforming Quotations must be in the form of the Schedules and in accordance with all requirements of the RFQ (including, without limitation, the Schedules).

Failure to comply with these requirements may render a Quotation invalid for the purposes of this RFQ process with the effect that Jemena may, in its sole and absolute discretion, reject the Quotation.

4. LODGEMENT OF QUOTATIONS

4.1 LODGEMENT

Quotations must be lodged via the eProcure Portal

4.2 NOTIFICATION OF RECEIPT OF QUOTATIONS

The eProcure portal will send an automatic confirmation that the submission has been received.

4.3 QUOTATION VALIDITY PERIOD

By lodging a Quotation, Respondents offers to provide the Goods/Services for the Price in accordance with the terms and conditions of the Agreement.

Quotations must remain open and valid for acceptance by Jemena for 90 days from the RFQ Closing Date.

4.4 OWNERSHIP OF QUOTATIONS

Quotations submitted by Respondents will become the property of Jemena. Subject to the provisions of this RFQ, Jemena may use Quotations for any purpose it deems appropriate. Quotations will not be returned to Respondents. Jemena may copy, amend, extract or otherwise deal with all or any part of a Quotation for the purpose of conducting the RFQ process and related procurement processes.

5. EVALUATION OF QUOTATIONS

5.1 REQUIRED INFORMATION

In evaluating Quotations, Jemena may require some clarification or elaboration of information supplied. Respondents must provide such additional information upon request.

Any information supplied by Respondents in response to a request for information or at an interview may, at Jemena's discretion, be treated as part of their Quotation.

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5.2 REFERENCE CHECKS

In evaluating Quotations, Jemena may visit, make telephone enquiries of or otherwise contact a Respondent's referees, or any other person or organisation, about the Respondent.

5.3 ACCEPTANCE AND REJECTION OF QUOTATIONS AND OTHER RIGHTS

Jemena, in its sole and absolute discretion and without recourse to any Respondent or other third party, reserves the right to:

- (a) reject any or all Quotations;
- (b) accept any Quotation or alternative Quotation even though that Quotation may be less favourable to Jemena than another Quotation;
- (c) waive any irregularity or non-conformance in a Quotation (including the late submission of a Quotation) and accept that Quotation;
- (d) re-invite Quotations or extend the RFQ to additional Respondents;
- (e) extend the RFQ Closing Date; or
- (f) otherwise amend or cancel the RFQ process.

Jemena is not obliged to give reasons for the acceptance or rejection of a Quotation.

5.4 NEGOTIATION WITH RESPONDENTS

Jemena, in its sole and absolute discretion and without recourse to any Respondent or other third party, reserves the right to negotiate with any one or more Respondents while continuing with this RFQ, without negotiating with other Respondents or advising other Respondents of those negotiations. Respondents must be prepared to enter into such negotiations upon request from Jemena.

6. ADDITIONAL REQUIREMENTS

6.1 RFQ DOCUMENTS MUST BE TREATED CONFIDENTIALLY

Respondents acknowledge and agree that all Confidential Information and information contained in this RFQ and in subsequent correspondence and discussions is strictly confidential. Respondents must ensure that RFQ Documents and other material and information provided by Jemena:

- (a) are stored securely;
- (b) are only used for the purposes of preparing a Quotation; and
- (c) are not disclosed to any other third party for any purpose not connected with the preparation of a Quotation without the prior written consent of Jemena.

6.2 RESPONDENTS WILL BE RESPONSIBLE FOR THEIR OWN COSTS

Respondents acknowledge and agree that they are not entitled to any reimbursement and must not make a claim for any costs, losses or expenses of any nature suffered or incurred in relation to, or in connection with, the preparation and submission of a

Quotation, the RFQ processes or the Respondent not being appointed.

Respondents are responsible for all costs incurred by them in participating in this RFQ, including in relation to the supply of further information as requested by Jemena and/or attending meetings with Jemena.

6.3 RESPONDENTS MUST NOT ENGAGE IN BID RIGGING

Respondents must not engage in improper, anti-competitive or cartel conduct, including, without limitation, by entering into a contract, arrangement or understanding with competitors, which has the purpose of rigging bids in response to this RFQ. In particular, Respondents must not agree with competitors that:

- (a) some competitors will not respond to this RFQ;
- (b) Respondents will respond to this RFQ on the basis that one particular Quotation will be more likely to succeed;
- (c) Respondents and/or their competitors will not proceed with their Quotations until the conclusion of the RFQ process; or
- (d) a material component of one or more Quotations will be responded to in a particular way; or
- (e) a price is artificially inflated to make another Quotation appear commercially more attractive

Respondents represent and warrant that they have no knowledge of the Quotation price or other commercial arrangements of any other Respondent. For the purposes of this section 6.3, rigging includes any conduct that is designed to make another Quotation relatively attractive or relatively unattractive (other than a bona fide response to this RFQ).

6.4 RESPONDENTS MUST RELY ON THEIR OWN ENQUIRIES

Respondents are advised that, while Jemena has used its best endeavours to ensure that all RFQ Information is accurate and complete, Jemena does not warrant, guarantee, make any representation or assume any duty of care or other responsibility to the Respondents with respect to the suitability, completeness, accuracy or adequacy of the RFQ Information. Jemena and Jemena's Associates shall not be liable upon any Claim arising out of or in connection with:

- (a) any error or omission from the RFQ Information;
- (b) any use of or reliance upon any RFQ Information;
- (c) any other fact, matter or thing arising out of, or in connection with, any RFQ Information; or
- (d) any failure by Jemena or Jemena's Associates to make available to the Respondents any other documentation or information for the purposes of the Services or this RFQ.

Respondents must rely on their own enquiries and are responsible for verifying all information provided to them during the RFQ process.

In submitting its Quotation, a Respondent is deemed by Jemena to have:

- (a) examined and understood the RFQ Documents and the RFQ Information;
- (b) read and fully understood the requirements of the Agreement;
- (c) examined all information in connection with the risks, contingencies and other circumstances relevant to the provision of the Goods/Services, whether provided by Jemena or otherwise obtained by Respondents; and

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- (d) made any other enquiries or carried out reasonable investigations.
- (e) Respondents warrant, for the benefit of Jemena, that they have undertaken the enquiries or actions detailed in paragraphs (a) to (e) above.
- (f) Respondents accept all risk arising out of their use of or reliance upon the RFQ Information.

damage, expense, suit, proceeding or cost which may be suffered or incurred by Jemena or Jemena's Associates. Respondents release Jemena and Jemena's Associates from any Claim Respondents have, or would have, against Jemena or Jemena's Associates in relation to or in connection with this RFQ, the consideration of Quotations or the awarding of the Agreement (including any Claim arising from any breach of this RFQ, negligence, default or lack of care by Jemena). Respondents indemnify and will keep indemnified Jemena and Jemena's Associates against any Claim which is the subject of the release provided for in this section.

6.5 RESPONDENTS MUST PROVIDE WARRANTIES

In lodging a Quotation, Respondents warrant, for the benefit of Jemena, that:

- (a) the information contained in their Quotation is accurate and complete;
- (b) their Quotation makes allowance for all matters that might impact upon their ability to provide the Goods/Services in whole or in part, or within any particular time, or at any particular cost, and in particular that the Price covers the costs of complying with all relevant requirements necessary for the due and proper provision of the Goods/Services in accordance with the terms of the Agreement;
- (c) they have not solely relied upon the RFQ Information in preparing and submitting their Quotation;
- (d) they have not relied upon the suitability, completeness, accuracy or adequacy of the RFQ Information in preparing and submitting their Quotation;
- (e) their Quotation is submitted based on their own investigations, interpretations, deductions, information and determinations;
- (f) they have, and will maintain, the necessary skills, qualifications and experience to enable them to provide the Goods/Services in accordance with the Agreement;
- (g) they have obtained, or will be able to obtain, all consents, permits authorities and licences (or other necessary authorisations) necessary for them to provide the Goods/Services;
- (h) they are not insolvent and there is no unfulfilled or unsatisfied judgement or court order outstanding against them and they are not aware of any court proceeding or action (including pending or potential proceeding or action) that would affect their ability to successfully supply/perform the Goods/Services and comply with its obligations under this RFQ and the Agreement; and
- (i) without limiting section 6.4, they have not relied upon any warranty or representation made by or on behalf of Jemena except as expressly provided for within this RFQ;
- (j) they will make no Claim against Jemena or Jemena's Associates in relation to the selection of a Contractor or any other matter in connection with this RFQ or the process contemplated by this RFQ and hereby release Jemena and Jemena's Associates from all such Claims (whether arising before, on or after the date of this RFQ);
- (k) they have complied with section 6.3; and
- (l) the Quotation is a bona fide Quotation submitted for the purpose of winning the opportunity to provide the Goods/Services.

6.6 RESPONDENTS MUST INDEMNIFY JEMENA FOR ANY BREACH OF WARRANTIES

In the event of a breach of the warranties given in section 6.4 and 6.5, Respondents indemnify and will keep indemnified Jemena and Jemena's Associates in respect of any loss,