

EXECUTIVE SUMMARY

1. This Tender Evaluation Board Report (TEBR) relates to the Head Contract (HC) procurement (AZ6537) for project ESTL8116PH1 Facilities to Support LAND8116 Phase 1 Protected Mobile Fires, Lavarack Barracks, QLD (the Project).
2. The PDDP at Reference A approved a single stage limited tender approach to market to indigenous enterprises under exemption 16 of division 2 of the CPRs. A Request for Tender (RFT) (Reference C) for the Project was distributed via AusTender on 15 May 2024 and the RFT closed at 1200h AEST on 17 Jul 2024.

6. Following removal of the Tender Schedule H- Financial and Schedule I – Alternative Proposals by the Tender Opening Committee, the Board's Chair conducted a Conformance Check. The tenders were found to meet the conformance requirements of the RFT, including the lodgement requirements and the Minimum Form and Content requirements. There were no Conditions of Participation.

7. Following the Conformance Check, the Chair released the submissions to the Board members to carry out their individual assessments.

8. The Tender Evaluation Board (TEB or Board) was conducted on 25 July 2024 after all Board Members had completed their individual assessment of the tenders. The board commenced with a probity briefing from the Projects probity advisory s47E(d) representative. The Board members confirmed they had no visibility of pricing or alternative proposals during their individual assessments, there were no conflicts of interest and the Board Chair confirmed that Board members had sufficient time to conduct their individual assessments

G. CFI Evaluation and Probity Protocols, April 2024 version

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Source Selection

20. In accordance with Reference A, the Head Contractor is to be engaged through a limited tender, single stage Indigenous procurement process. The procurement of construction

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services for the Project will exceed the procurement threshold for a limited tender, as such the rules in Division 2 must be followed unless a relevant exemption applies. A limited tender approach for the procurement of an SME with at least 50 per cent indigenous ownership qualifies for exemption 16 in Appendix A. of the CPRs and is exempt from the rules of Division 2 of the CPRs and from paragraphs 4.7, 4.8 and 7.26 of Division 1. Aligning with a branch wide intent of providing indigenous owned enterprise opportunity where possible, this was the preferred procurement strategy (and compliant with the CPRs) for the Project.

Tender Conformance

31. In accordance with Reference G, prior to distributing tenders to the Board, the Chair conducted a Conformance Check to ensure that each submission complied with the conformance requirements set out in the RFT (except for departure or qualification to the Contract in Part 5) before admitting the tenders to evaluation. The Chair checked that each submission:

- a. submitted by the closing time and date
- b. met all minimum form and content requirements (except for departure or qualification to the Contract in Part 5)
- c. met all conditions for participation.

32. Only those submissions that satisfied the conformance requirements were admitted to evaluation, unless the failure to satisfy a requirement fell within the allowable discretion provided in the Commonwealth Procurement Rules. There were no non-conforming tenders.

33. In accordance with Reference G, all conforming tenders were distributed by the Chair to the remaining Board members for the commencement of individual detailed evaluation. Accordingly, the tenders from the following companies were admitted to Detailed Evaluation Stage:

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- b. Barpa.

Probity Advice

88. The procurement and evaluation process has complied with the probity, governance, legislative and policy requirements of Reference G. Probity advice was sought as required from the Probity Advisor, who also attended all meetings of the convened Board.

The Probity Advisor's Report is attached at Enclosure 3 and concludes that:

- a. There are no outstanding probity issues in relation to the Board's evaluation of tenders for AZ6537.
- b. The recommendations of the Board are defensible from a probity perspective; and
- c. There are no probity impediments to the Delegate acting on the recommendations of the Board.

89. The Board confirms that the evaluation of tenders was conducted in accordance with Reference G.

90. The Tender Evaluation Board recommends that:

- a. Barpa be accorded Preferred Tenderer Status for the purpose of negotiations for AZ6537 for Project ESTL8116PH1 Facilities to Support LAND8116 Phase 1 Protected Mobile Fires, Lavarack Barracks, QLD

Probity Report

Commonwealth of Australia represented by the Department of Defence

Project ESTL8116PH1 – Facilities to Support
LAND8116 Phase 1 Protected Mobile Fires at Lavarack
Barracks, QLD (the **Project**)

ATM AZ6537 Request for Tender (the **RFT**)

Head Contract (HC-1 2021)

- 4.7 On 18 July 2024, the Project team notified us that they had completed their conformance checks and were satisfied that the two tenders received were conforming. On 16 August 2024, in our review of the TEBR, we confirmed with the Project team that there were no non-conformances identified.



Australian Government

Department of Defence
Security and Estate Group

**CAPITAL FACILITIES AND
INFRASTRUCTURE (CFI)**

**Tender Evaluation and Probity
Protocol**

PURPOSE

1. This Tender Evaluation and Probity Protocol (**Protocol**) details the evaluation strategies and methodologies for the procurement activities as conducted by Capital Facilities and Infrastructure (**CFI**) Branch.

PROBITY MANAGEMENT

2. All procurement activities will adhere to and meet the requirements of the relevant Financial Regulations, the Public Governance, Performance and Accountability Act 2013 (Cth), Commonwealth Procurement Rules (**CPRs**), Accountable Authority Instructions, Defence Procurement Policy Manual and relevant Estate Resources Information Kiosk (**ERIK**) policies and procedures with respect to receiving, handling and evaluating submissions.

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6. Submissions received will be distributed to the Chair of each Evaluation Board

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10. After conducting a conformance check, the Chair will distribute copies of submissions found at that time to be conforming to members of the Evaluation Board. The Chair will also distribute to members of the Evaluation Board a copy of this Protocol, the project specific probity protocols as developed by the Probity advisor (if applicable), the Ten Point Evaluation and Risk Scoring Guide and scoring sheets. In appropriate cases, this may be achieved by use of the Administrative Instruction (Template available on ERIK).

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EVALUATION PROCESS

31. The evaluation will comprise three distinct stages:
- a. Conformance Check by the Chair or their delegate;
 - b. Individual Board Member Assessments of conforming submissions; and
 - c. Evaluation Board Assessments of conforming submissions.

CONFORMANCE CHECK

32. Prior to distributing submissions to the Board, the Chair will conduct a conformance check to ensure that each submission received complies with the conformance requirements published in the request documentation. The Chair should be satisfied that each submission:

- a. has, subject to the CPRs, been submitted by the closing time and date in the manner specified in the request documentation;
- b. subject to paragraph 32, meets all minimum form and content requirements; and
- c. meets any conditions of participation.

33. The Chair can assign this role to a Delegate however this person should preferably not be a member of the Board and independent of that process. The Board Report should reflect the person who undertook this role.

34. Only those submissions that satisfy the conformance requirements will be admitted to evaluation, unless the failure to satisfy a minimum form and content requirement falls within the allowable discretion provided in the relevant request documentation. The exercise of any discretion to allow the correction of a failure to satisfy a minimum form and content requirement in a submission must be conducted equitably.

35. Where the Chair or their delegate finds that there is doubt over conformance of any submission, it will be referred to either the Probity Adviser, if one has been appointed, or to the DQAC, where a Probity Adviser has not been engaged. In consultation with the Probity Adviser or DQAC, as applicable, the Chair or their delegate will form a view as to conformance or otherwise of the submission and record this for tabling at the Board meeting.

36. The Chair is not required to conduct a detailed check to determine whether

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submissions attempt to depart from or qualify the contract (where this is a minimum form and content requirement) during this stage of evaluation. However, if during any stage of evaluation, a Board member suspects a submission indicates a departure from or qualification to the contract, the Chair will determine conformance, acting on legal and probity advice, as appropriate.

INDIVIDUAL BOARD MEMBER ASSESSMENTS

37. The evaluation criteria and weightings that apply to each stage of each procurement are as defined at **Annex E** of this Protocol and must be consistent with what has been included within the request documentation. Any project specific changes to the evaluation criteria and weightings must be approved by the Delegate before tender release.

38. The Ten Point Evaluation and Risk Scoring Guide at **Annex B** applies to each evaluation (excluding Legal Services).

39. Once the initial conformance check has been completed, conforming submissions will be distributed to the remaining Board members (as provided in paragraph 6) for the commencement of individual Board member detailed assessments. If submissions are to be posted to external Board members, the Chair will ensure that the submissions are posted in a manner that complies with any applicable Defence security policy.

40. Individual Board members will score each submission by reference to the weighted evaluation criteria (**Annex E**) and the Ten Point Evaluation and Risk Scoring Guide (**Annex B**), using whole number scores only. Individual Board members will bring notes on their assessments to the Evaluation Board to refer to during the "Board Detailed Assessment of Submissions" stage (described below).

41. If it becomes apparent to any Board member that the content of a submission may be otherwise non-conforming, this will be referred to the Chair who will follow the same process outlined in the "Conformance Check" section above for managing conformance requirements.

Indigenous Opportunities

87. For those procurements to which the Indigenous Procurement Policy ('IPP') applies, the following must be considered:

- a. Procurement Planning - The application of the Policy in the procurement planning and development of the resultant procurement strategy; and
- b. Tender Evaluation - the Board must, at the conclusion of evaluation, satisfy

itself that the recommended Tenderer has submitted a complying Indigenous Participation Plan that has met the requirements of the policy as stated in the relevant request documentation.

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~~OFFICIAL-USE-ONLY~~**ANNEX D – EVALUATION BOARD GUIDANCE / CHECKLIST (ITR/RFT)****Procurement Details:** AZ **Contract type:** **Stage:** ITR/RFT/RFP**Project Number and Title:****Date convened:****Time convened:****Chair:****Probity Adviser:****Board Members:****Scribe:****Stenographer:****Board Observer(s):****Adviser(s):**

Activity	Complete
Preliminaries <i>The purpose is to open the Board and undertake all required administrative tasks.</i>	
Open the Board (Chair) Chair welcomes Board members, scribe and/or stenographer (if engaged), observer(s) and introduces the Probity Adviser (if one has been appointed).	
Probity Brief (Probity Adviser/Chair) Probity Adviser or DQAC (or Chair, as approved by DQAC) provides a probity briefing in accordance with clauses 40 and 41 and Annex A of the CFI Evaluation and Probity Protocol.	

Activity	Complete
<p>Conformance Check (Chair)</p> <p>Chair advises/asks if there were any items of non-conformances identified during the review of the submissions.</p> <p>NOTE: <i>Chair to do an initial conformance check before issuing submissions to Board members. This is to confirm if anything may have been missed. If found, seek probity advice, via Chair.</i></p>	

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HC-1 2021 - REQUEST FOR TENDER (RFT)

HC-1 2021 Conformance Check	Weighting
<p>ATM CLOSE DATE and ATM CLOSE TIME AND MANNER OF LODGEMENT <i>Refer clause 3.1(a)</i></p> <p>The Tenderer must lodge its Tender in the manner specified in the RFT, and the Tenderer's Tender must be received before the ATM Close Date and ATM Close Time.</p> <p><i>If "No", refer to clause 3.3(a).</i></p>	<p>YES/NO</p>
<p>MINIMUM FORM AND CONTENT REQUIREMENTS</p> <p><i>Refer clause 3.1(b), item 1 of Tender Form and Statutory Declaration in Part 3, Tender Schedule F - Indigenous Procurement Policy, Tender Schedule I - Alternative Proposals, item 1 of Tender Schedule J - Miscellaneous Matters for Evaluation and Tender Schedule K - Statement of Tax Record.</i></p> <p>The Tenderer must satisfy each minimum form and content requirement as follows:</p> <ul style="list-style-type: none"> the Tender must remain valid for the duration of the Tender Validity Period, during which period the Tenderer cannot withdraw its Tender; the Tenderer must complete and lodge Tender Schedule F - Indigenous Procurement Policy; if clause 29.1 of the Tender Conditions applies, the Tenderer must complete and lodge Tender Schedule K - Statement of Tax Record; and the Tenderer must accept (without departure, qualification, amendment, limitation or exclusion) the Contract in Part 5, except: <ul style="list-style-type: none"> A. subject to subparagraph B, to the extent provided for under clause 3.2 of the Tender Conditions and expressly set out by the Tenderer in Tender Schedule I - Alternative Proposals; and B. in respect of clauses 5.4 - 5.9 of the Conditions of Contract in Part 5 only, as expressly set out by the Tenderer in item 1 of Tender Schedule J - Miscellaneous Matters for Evaluation. <p><i>If "No", refer to clause 3.3(b).</i></p>	<p>YES/NO</p>
<p>CONDITIONS FOR PARTICIPATION (IF APPLICABLE)</p> <p><i>Refer clause 3.1(c)</i></p> <p>The Tenderer must, at the time of lodging its Tender, satisfy each condition for participation specified in the Tender Particulars (if any).</p>	<p>YES/NO OR N/A</p>

HC-1 2021 Conformance Check	Weighting
<i>If "No", refer to clause 3.3(c).</i>	

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<p>TENDER SCHEDULE F - INDIGENOUS PROCUREMENT POLICY</p> <p><i>Refer clause 4(a)(vi), 4(c), 4(d) and Tender Schedule F - Indigenous Procurement Policy</i></p> <p>The extent to which the Tenderer has demonstrated:</p> <p>A. its commitment to increasing Indigenous participation, including:</p> <ol style="list-style-type: none"> 1) that it has a satisfactory approach to delivering Indigenous employment and Indigenous supplier use outcomes; 2) that its Indigenous Participation Plan will meet the mandatory minimum requirements for the Indigenous Procurement Policy; and 3) its past performance and/or demonstrated commitment in relation to increasing Indigenous participation, including, where relevant, compliance with: <ol style="list-style-type: none"> a) an Indigenous Participation Plan; and b) the mandatory minimum requirements for the Indigenous Procurement Policy; and 	<p>VFM</p>
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HC-1 2021 Evaluation Criteria	Weighting
B. if clause 27.3 of the Tender Conditions applies, that it will ensure that the Contractor's Activities and the Works deliver significant Indigenous employment or Indigenous supplier use outcomes in the Remote Area, and will otherwise meet its obligations under the Contract in Part 5 if it is the successful Tenderer.	
TENDER SCHEDULE G - COMMONWEALTH PROCUREMENT RULES COMPLIANCE <i>Refer clause 4(a)(vii), 4(c), 4(d) and Tender Schedule G - Commonwealth Procurement Rules Compliance</i> The extent to which the Tenderer has demonstrated its capability to meet the applicable Australian standards, provided details of its practices regarding labour regulations and ethical employment and promoting environmental sustainability in relation to the Contractors Activities. [Note: Broader benefits to the Australian economy (CPRs 2022, 4.7-4.8) are considered at Tender Schedule C.]	VFM