

REQUEST FOR TENDER

TORRES STRAIT ISLANDERS' MEDIA ASSOCIATION INDIGENOUS BROADCASTING SERVICES REVIEW 2017-18

Tender Number: CA-2018-00004

Governance and Leadership Programme

Programme Manager:


Yoshiko Hirakawa

Project Manager:

Damon Lewis

Tender Approval

The information contained in this Request for Tender inclusive of the user requirements is cleared for release.



Yoshiko Hirakawa
Programme Manager
Governance and Leadership

2 / 8 / 2017

REQUEST FOR TENDER (RFT)

Reference:

- A. Torres Strait Regional Authority (TSRA) Procurement Manual.

Purpose

1. The purpose of this document is call for tenders to conduct a review of the Torres Strait Islanders Media Association (TSIMA).
2. The methodology used in this RFT is also applicable for the call for Expressions of Interest (EOI) and Requests for Quotation (RFQ). The term 'tender' throughout this document is to be interpreted accordingly.

Timing

3. Tenders open at Wednesday 3 August 2017 and close at 4.00pm on Monday 21 August 2017
4. The cut-off date for correspondence from tenderers seeking clarification or additional information is 4.00pm Monday 14 August 2017
5. All timings are Australian Queensland Non Daylight Saving, (UTC + 10).

Registration

6. Persons intending to submit a tender response are advised to register their intent. It is in the interest of the tenderer to effect the registration as early as possible in the tender period so that they will receive any additional or amplifying information. Registration may be effected by email to tenders@tsra.gov.au including the reference 'RFT CA-2018-00004' in the subject line.

Requirement

7. The TSRA requires services to conduct a review to:
 - Provide the TSRA with updated performance indicators and strategic guidance for managing the future structure and size of investment in Torres Strait Indigenous broadcasting and media.
 - Enable the TSRA to manage and better control any risks relating to its investment in TSIMA and ensure that future funding is effectively targeted and achieves the best value for money.
 - Ensure TSIMA's strategic plans align with expected outputs and that the organisation is accessing opportunities presented by new technologies and any regulatory changes.
8. The TSRA requires that the services be provided in accordance with the **Statement of Work** at Annex A.

Communication by Tenderers

9. Communication from tenderers must be in writing and all responses to enquiries will be provided in writing. Questions from tenderers will not be accepted by telephone or other verbal communication. Questions will not be accepted after the cut-off date indicated in 'Timings' above. Tenderers are advised that all responses to questions relating to clarification of the tender document or relating to the services under the tender will be provided in writing to all persons who have registered their interest in the tender. Questions are to be directed to tenders@tsra.gov.au and must contain the reference 'RFT CA-2018-00004' in the subject line of the email.

Tender Evaluation

10. The tender will be assessed in accordance with TSRA Tender Evaluation Plan CA-2018-00004.
11. It is in the interest of the tenderer to **construct their tender response around the evaluation criteria** which is contained in the Tender Evaluation Plan (Attachment 1).
12. Tenderers are also required to state their agreement to the terms and conditions in the shell Contract (Attachment 2) or to identify any clauses in the draft Contract where a variation would be sought. The nature and reason for the variation is to be included in the tender response.
13. Tenders which are lodged electronically will be accepted as being 'signed' by a duly authorised representative of the tendering organisation provided the name, appointment and contact details (telephone, email address and postal address) of the authorised officer is clearly identifiable. Tenders submitted by other means must contain the signature, name, appointment and contact details (as above) of the tenderer's authorised officer.

Incomplete Responses and Late Tenders

14. Tenders lodged after the closing date specified under 'Timing' above will be managed as late tenders. Late tenders will not be evaluated and if submitted as hard copies will be returned to the tenderer unopened. Tenderers will be advised as soon as possible after the tender closing date if their documentation was not received by the tender closing date. Tenders submitted through Australia Post which are postmarked up to 48 hours before the tender closing date may be accepted if they are received at least 24 hours before the Tender Evaluation Panel is scheduled to meet. Tenders which do not meet this exception are to be treated as late tenders.
15. Tenders which are materially incomplete, in that insufficient information has been provided to complete an evaluation of the tender, may be set aside at the beginning of the Tender Evaluation. Tenders which are 'set aside' are to be classed as non-compliant and are not to be further evaluated. The reason for setting aside an incomplete tender is to be included in the Evaluation Report to the delegate.

Clarification of Tender Responses

16. During the evaluation process, communication between the Commonwealth and tenderers must not be designed to solicit new information from tenderers. Any communication between the Commonwealth and tenderers is to be restricted to clarification of information that would assist the evaluation process, thereby improving the level of confidence attached to the evaluation. Clarifying questions must be approved for release by the Evaluation Panel Chair. When a tenderer's response to a clarifying question foreshadows a change in scope, schedule, quality or cost, the Evaluation Panel will determine whether the information is admissible for evaluation purposes.

17. Any unsolicited information received from tenderers after the tender closing date will be passed to the Chairperson of the Evaluation Panel. If the Chairperson of the Evaluation panel determines that such information is inconsistent with the principles outlined in the procedures for the handling of late tenders as outlined in the Tender Evaluation Plan, the information is to be so endorsed and withheld from the evaluation.
18. Any clarification questions from the Evaluation Panel are to be consolidated into a single request and forwarded to the tenderer by the Evaluation Panel Chair. Requests for clarifying information will be issued by the Evaluation Panel Chair to the relevant applicant in writing.
19. Tenderers will be allowed two business days to respond to matters of clarification.

Lodgement of Tender

20. Tender responses are to be clearly marked as '**TENDER RESPONSE CA-2018-00004**'. Electronic lodgement is preferred. Electronic submissions must be compatible with Microsoft Office Suite 2010 or Adobe Reader Portable Document Format (PDF) and lodged as an eMail attachment to tenders@tsra.gov.au. Alternatively, responses may be lodged either by Australia Post to 'Locked Tender Box, The Torres Strait Regional Authority, PO Box 261, Thursday Island, Queensland, 4875'; or delivered by the Tenderer's representative or courier to the Locked Tender Box located on the level one foyer of Torres Haus, 46 Victoria Parade, Thursday Island, Queensland.

Provision of Advice to Tenderers

21. The recommendation of the Tender Evaluation Panel will not be communicated to tenderers until the Evaluation Report has been approved by the delegate. Unsuccessful applicants will be advised by letter.
22. Feedback to unsuccessful tenderers will be offered as a matter of course. Feedback will be limited to advising the name / organisation of the successful applicant, the value of the successful tender and the strengths and weaknesses of the unsuccessful tender. A comparison of the unsuccessful tender to any other tender will not be provided. Feedback will be provided by the Chair of the Evaluation Panel. A record will be kept of all feedback.
23. The successful applicant will be advised by letter and informed that a contract will be forwarded for consideration.

Annex

- A Statement of Work

Attachments:

1. Tender Evaluation Plan
2. Draft Contract

STATEMENT OF WORK - REQUEST FOR TENDER

Torres Strait Islanders' Media Association

Indigenous Broadcasting Services Review 2017-18

Background

In 2010 the TSRA commissioned the Queensland Corporate Communication Network to undertake the TSRA Media and Communication Services Review. The review report delivered in December 2010 provided a suite of recommendations in relation to the operations of the Torres Strait Islanders' Media Association (TSIMA).

Key deliverables

- Provide the Torres Strait Regional Authority (TSRA) with updated performance indicators and strategic guidance for managing the future structure and size of investment in Torres Strait Indigenous broadcasting and media.
- Enable the TSRA to manage and better control any risks relating to its investment in TSIMA and ensure that future funding is effectively targeted and achieves the best value for money.
- Ensure TSIMA's strategic plans align with expected outputs and that the organisation is accessing opportunities presented by new technologies and any regulatory changes.

The review will need to focus on the organisation's implementation of the 2010 review recommendations, any outstanding recommendations and whether they are still relevant to ensuring TSIMA is able to fulfil its funding obligations to the TSRA under the guidelines on the Indigenous Broadcasting Programme.

In addition, the consultant will be expected to report on and provide updated recommendations on the following:

- Governance and oversight;
- Current Board structure and mechanisms to access expert advice;
- Staff and training;
- Outputs;
- Funding and generated income against comparable regional and mainland Indigenous broadcasting organisations;
- The long term sustainability of Remote Indigenous Broadcasting (RIBS);
- Opportunities for multimedia content development;
- Alternative delivery platforms for content, such as streaming;
- Key Reporting Areas and Performance Indicators with opportunities for streamlining ; and
- Review the TSRA Indigenous Broadcasting Grant Guidelines.

Reference documents

Torres Strait and NPA Regional Plan 2009 – 2029
Torres Strait Development Plan 2014 – 2018
TSRA Media & Communication Services Review Report 2010
TSIMA Strategic Plan 2017
TSRA Indigenous Broadcasting Programme Grant Guidelines

Key Stakeholders

Potential key stakeholders for the review include (but not limited to):

- TSIMA Chair and Board members
- TSIMA Operations Manager and staff
- Remote Indigenous Broadcasting (RIBS) staff and community members
- Current government and commercial clients
- Potential commercial clients
- Torres Strait Regional Authority Chair and Board
- Torres Strait Island Regional Council
- Northern Peninsula Area Regional Council
- Torres Shire Council
- Current and potential client for the music studio
- Local primary, secondary and tertiary education providers

Engagement and community consultation

- A 1 day facilitated planning workshop will be held with all TSIMA (and RIBS) staff and volunteers. This will build on the current TSIMA Strategic Plan identifying and discussing the key challenges and opportunities.
- A 1 day facilitated workshop with TSIMA staff and volunteers to explore and map out the key opportunities and strategies for digital content creation and delivery, specifically using mobile technology like iPhones and MacBooks.
- At least a 2 x 1 day facilitated workshops with the TSIMA President and Board, the 1st workshop would be an opportunity for the consultant to seek TSIMA President and Board's input to the engagement (such as key stakeholders, timing and logistics), identifying strengths, challenges and aspirations for the organisation. The 2nd workshop would be an opportunity for the consultant to provide feedback to the TSIMA President and Board on key themes coming out of the staff and stakeholder engagement and discuss the key challenges ahead for the organisation to fulfil its obligations as a Community Broadcaster and Regional Indigenous Media Organisation (RIMO) including the operation of the RIBS.

Proposed Timing

September 2017 – Thursday Island – initial meeting with TSIMA President and senior staff arrange access to key organisational documents. Initial meeting with TSRA Chair, Portfolio Member and senior staff. Provide a more detailed review methodology to the TSRA.

September 2017 – Undertake desktop assessment of key organisational documents and the 2010 review report.

October 2017 – Thursday Island conduct facilitated workshops, community and stakeholder consultation.

October 2017 – Draft documents prepared.

October 2017 – Thursday Island, Meeting with TSRA Chair, CEO and Programme Manager on progress and proposed recommendations on the review of the Indigenous Broadcasting Programme as well as a separate workshop with TSIMA Board to discuss the draft documents and key messages coming out of the consultation.

November 2017 – Finalise documents.

November 2017 - Delivery of final report and presentation to the TSRA Board by the Consultant.

November 2017 – TSIMA presentation to TSRA Board.

Quotation costing

The quotation should be based on a fixed cost for the above services. The TSRA will reimburse reasonable travel, allowances and accommodation expenses at cost. These costs should be identified separately in the quotation.



TENDER EVALUATION PLAN

TORRES STRAIT ISLANDERS' MEDIA ASSOCIATION INDIGENOUS BROADCASTING SERVICES REVIEW 2017-18

Contract Number: CA-2018-00004

Governance and Leadership Program

Programme Manager:

Yoshiko Hirakawa

Project Manager:

Damon Lewis

Tender Approval

I approve the arrangements details in this Tender Evaluation Plan including the selection methodology, selection criteria, weightings and members of the Tender Evaluation Panel.


Yoshiko Hirakawa

Programme Manager

Governance and Leadership

21/8/2017

TENDER EVALUATION PLAN (TEP) - INTERNAL

Reference:

- A. Torres Strait Regional Authority (TSRA) Procurement Manual.

Purpose

1. The purpose of this document is to outline the evaluation plan and methodology for assessing the responses to the Tender for contract number CA-2018-00004 for the Review of the Torres Strait Islanders Media Association (TSIMA) Indigenous Broadcasting Services Review 2017-18. The methodology is also applicable for the evaluation of Expressions of Interest and Requests for Quotation. The term 'tender' throughout this document is to be interpreted accordingly.
2. The aim of the evaluation plan is to outline the processes to be undertaken by the evaluation panel in order to promote open and effective competition and to ensure that through this process the best *value for money* to the Commonwealth is obtained.

Evaluation Methodology

3. The tender was advertised in the Australian and Courier Mail newspapers on Wednesday 2 August 2017, the TSRA and Tenderlink websites from Thursday 3 August. The evaluation is to be conducted in accordance with procurement principles outlined in Reference A. The evaluation criteria and weightings for the tender are shown in Annex A.
4. Tender responses will be reviewed for completeness against the following list. Incomplete tender responses may be set aside by the panel.
 - a. compliance with any Australian Government procurement policies specified in the Request for Tender document;
 - b. a minimum 30 day period of validity for the quoted price;
 - c. evidence the tender has been submitted by an authorised officer;
 - d. the applicant's understanding of the task as detailed in the Terms of Reference or Statement of Work in the Request for Tender document;
 - e. the applicant's proposed approach to the delivery of the services;
 - f. the applicants past performance, the skills, qualifications and experience of the person(s) nominated to deliver the services;
 - g. the offered price, the basis of determining the price and the payment schedule; and
 - h. overall value for money to the Torres Strait Regional Authority.
5. Each tender is to be evaluated individually by each member of the evaluation panel against the criteria in Annex A and scoring guide in Annex B. A tender which fails to meet mandatory performance or functional requirements in Part A of the Evaluation Scoring Guide may be set

aside and not further considered. The reason for any response being put aside at this stage is to be included in the tender evaluation report.

6. For each response that has met the mandatory performance and functional requirements, each member of the Evaluation Panel is to complete an assessment using the tender evaluation workbook (Attachment A). The Evaluation Panel will then meet and develop a consensus report for each tender response. The consensus report is to reflect the agreed position of all voting members of the evaluation panel and is to be completed on a master copy of the assessment using the tender evaluation workbook (Attachment A).
7. On completion of detailed assessments of individual tenders, a comparative qualitative assessment of all tenders against the evaluation criteria is to be completed. The comparative assessment will focus on drawing out major differences between offers as they relate to the evaluation criteria rather than the price. Key discriminators between applicants will form the basis upon which applicants will be ranked in order of technical merit in the evaluation report.
8. The comparative assessment is to document the relative strengths and weaknesses of the tenders in order to make a value for money judgement.
9. Value for money shall be determined by comparing:
 - a. the price offered;
 - b. the level of effort proposed;
 - c. the quality of the services offered, in particular the qualifications and experience of the persons proposed to deliver the services; and
 - d. compliance with the project schedule.

Evaluation Panel Membership

10. The Evaluation Panel members are:

Name	Role	Voting / Non-voting
Yoshi Hirakawa	Chairperson	Voting
Damon Lewis	Member	Voting
Charlie Kaddy	Member	Voting

Responsibilities of the Evaluation Panel Chairperson

11. The evaluation panel chairperson is responsible for:
 - a. ensuring evaluation panel members are aware of and comply with the requirements of the tender evaluation;
 - b. managing the assessment of each response against the requirements of the tender and in accordance with the evaluation plan;
 - c. ensuring consistency of the approach and evaluation methodology; and

- d. completing the tender evaluation report and submitting the recommendation of the tender evaluation panel to the delegate.

Incomplete Responses and Late Tenders

12. Tenders lodged after the closing date specified in the tender document are to be managed as late tenders. Late tenders are not to be evaluated and if submitted as hard copies are to be returned to the tenderer unopened. The person submitting the tender is to be advised as soon as possible. Tenders submitted through Australia Post which are postmarked up to 48 hours before the tender closing date may be accepted if they are received at least 24 hours before the tender evaluation panel is scheduled to meet. Tenders which do not meet this exception are to be treated as late tenders.
13. Tenders which are materially incomplete, in that insufficient information has been provided to complete an evaluation of the tender, may be set aside at the beginning of the evaluation panel meeting. The reason for setting aside an incomplete tender is to be included in the evaluation report.

Clarification of Responses

14. Communication between the Commonwealth and tenderers must not be designed to solicit new information from tenderers. Any communication between the Commonwealth and applicants is to be restricted to clarification of issues that would assist the evaluation process, thereby improving the level of confidence in the evaluation. Clarifying questions must be approved for release by the evaluation panel chairperson. When an applicant's response to a clarifying question foreshadows a change in scope, schedule or cost, the evaluation panel will determine whether the information is admissible for evaluation purposes.
15. Any unsolicited information received from tenderers after the tender closing date is to be set aside until after the tender evaluation is complete. If the tender evaluation panel considers a response requires clarification, the panel may first consider any unsolicited information received, prior to contacting the tenderer.
16. Any clarification questions are to be consolidated into a single request and passed to the evaluation panel chairperson. Requests for clarifying information will be issued in writing by the chairperson to the relevant tenderer.

Evaluation Board Reporting

17. The signed consolidated tender evaluation workbooks are to be appended to the evaluation report summarising the strengths and weaknesses of each response and recommending the preferred offer to the delegate. The original hard copy responses from each tenderer are to be attached to the Evaluation Report.

Probity Issues

18. If appointed, the probity adviser is to advise the evaluation panel chair of any probity risks that arise during the tender process.
19. Before commencing the evaluation the chair of the evaluation panel is to ascertain from each member of the evaluation panel whether they have been contacted by or have provided any

assistance to any of the tenderers, in relation to the preparation of the tender. Should there be any question of the independence of any member of the evaluation panel the chairperson is to seek advice from the probity adviser (if appointed) as to whether that member should be excused. Should a member be excused the chairperson is to suspend the evaluation panel and consult with the delegate to appoint a replacement member. The chairperson is to reconvene the evaluation panel when a new member is appointed and they have completed their individual tender assessments.

20. On completion of the evaluation all copies of the tender and evaluation documents are to be returned to the chairperson. An electronic copy of each tender is to be stored in the TRIM. A paper copy of the successful tender is to be retained as a working document for the duration of the Contract and then destroyed. All paper copies of unsuccessful tenders are to be destroyed.
21. If at any time during the evaluation process any member of the evaluation panel is contacted by an applicant in relation to the tender, they are to report the contact to the evaluation panel chairperson.

Provision of Advice to Tenderers

22. The recommendation of the tender evaluation panel is not to be communicated to tenderers until the tender evaluation report has been approved by the delegate. Unsuccessful applicants are to be advised by letter they have been unsuccessful.
23. Feedback to unsuccessful tenderers is to be offered as a matter of course. Feedback is to be limited to advising the name / organisation of the successful tender, the value of the successful tender and the strengths and weaknesses of the tenderers response. A comparison of the tender to any other tender is not to be made. Feedback is to be provided by the chairperson of the evaluation panel. A record is to be made of all feedback.
24. The successful applicant is to be advised by letter and informed that a contract will be forwarded for consideration.

Yoshi Hirakawa
Programme Manager
Governance and Leadership Programme

Annexes:

- A. Evaluation Criteria and Weightings
- B. Scoring Guide

Attachment:

- A. Evaluation Matrix (Template)

EVALUATION CRITERIA AND WEIGHTINGS

1. The evaluation criteria and their weightings are shown in Table A-1.

Serial	Mandatory Evaluation Criteria, applying to all Tenders	
M1	The identity and contact details for the officer authorised to submit the tender has been provided.	Yes / No
M2	The total cost and the breakdown of the cost can be identified.	Yes / No
M3	The tenderer commits to deliver the services within the time-frame specified in the Statement of Work.	Yes / No
M4	The tender describes the skills and experience of the personnel nominated to deliver the contracted services.	Yes / No
M5	The level of effort is stated or can be clearly inferred from the response.	Yes / No
M6	The submission contains sufficient information to enable the Evaluation Panel to determine whether it represents value for money.	Yes / No

Serial	Tender Specific Mandatory Criteria	
S1	The tenderer demonstrates the capacity to undertake the services listed in the Statement of Work.	Yes / No
S2	The tenderer proposes to actively involve Torres Strait Islanders in the review.	Yes / No
S3	The submission contains sufficient information to enable the Evaluation Panel to determine whether it represents value for money.	Yes / No

Serial	TENDER Specific Qualitative Criteria	Weighting %
Q1	Demonstrated experience of working with remote Indigenous radio broadcasting, media and communication services.	25%
Q2	Demonstrated knowledge and experience in digital media content creation and delivery, particularly in remote Indigenous community settings.	25%
Q3	Demonstrated experience of Indigenous funding programme evaluation.	25%
Q4	Demonstrated experience in facilitating governance and strategic planning for Indigenous community cultural organisations.	25%

Serial	Risk Statement	Consequence
R1	That the tenderer does not agree to undertake some aspects of the services as set out in the statement of works.	Moderate
R2	That the tenderer’s service does not represent value for money.	Moderate
R3	That the tenderer does not have the capacity to provide appropriate services.	Moderate

Table A-1: Evaluation Criteria, Weightings and Risk

EVALUATION SCORING GUIDE

1. The evaluation scoring guide is shown in table B-1.

Description	Criteria	Score
Comprehensive	Compliance is demonstrated. Exceeds specified performance or capability and the additional material offered adds value. Tenderer clearly understands the requirement. No weaknesses or deficiencies. Almost certain tenderer will be able to deliver the services.	5
Very Good	Compliance is demonstrated. Fully meets the specified performance or capability. Tenderer indicates a very good understanding of the requirement. No weaknesses or deficiencies. Almost certain tenderer will be able to deliver the services.	4
Good	Compliance is demonstrated. Fully meets most, but has addressed all of the specified performance or capability. Tenderer indicates a good understanding of the requirement. No major weaknesses or deficiencies. Low risk the tenderer will not be able to deliver the services.	3
Acceptable (Deficient)	Compliance is demonstrated. Fully meets some, but has addressed all of the specified performance or capability. Tenderer indicates a general understanding of the requirement. Some weaknesses or deficiencies and further clarification may be needed. Moderate risk the tenderer will be unable to deliver the services.	2
Marginal (Deficient)	Compliance is not demonstrated. Has addressed all of the specified performance or capability. Tenderer does not indicate a general level of understanding or indicates some misunderstanding of the requirement. Some major weaknesses or deficiencies. High risk the tenderer will not be able to deliver the services.	1
Unacceptable (Deficient)	Non-compliant. Has not addressed all of the specified performance or capability, or the tenderer indicates a significant misunderstanding of the requirement. There are few supporting statements to verify claims made. Extreme risk the tenderer will not be able to deliver the services.	0

Table B-1: Evaluation Scoring Guide

Deficiencies

2. If any criteria is scored as two (acceptable with some deficiencies) or lower, it will be classed as deficient, meaning it is assessed as falling short of the requirements specified in the tender. Deficiencies will be classified in accordance with table B-2.

Deficiency	Criteria used to determine deficiency
Critical	A deficiency that cannot be readily remedied prior to contract signature which is of such significance that it may seriously prevent the contract deliverables from being achieved to the specified schedule, budget or quality.
Significant	A deficiency that has the potential to prevent an element of the contract deliverables from being achieved, but this is expected to be remedied prior to contract signature. The specified schedule, budget or quality may require adjustment.
Minor	A deficiency that has no substantial implications for the deliverables and could be accepted without remedial action. The deficiency has no impact on the specified schedule, budget or quality.

Table B-2: Deficiency Criteria

- In applying the above criteria, each identified deficiency is to be judged on its merits as presented. The risks to schedule, budget and quality are to be considered when determining the level of the deficiency.

Confidence Levels/Risk Assessment

- After compliance has been assessed, a level of confidence is to be applied to each criteria using the ratings shown in Table B-3. The evaluation of confidence provides an indication of an assessment of risk associated with the tender. A high level of confidence would indicate a low level of risk in the claims of the tenderer.

Level	Criteria used to determine confidence level
High	The claims made by the tenderer are credible, supported by evidence provided in the tender or in publicly accessible material, and can be readily verified without seeking clarification from the tenderer. The evaluation panel has a high level of certainty concerning the validity of the claims.
Medium	The claims made by the tenderer are supported by evidence provided in the tender or in publicly accessible material, but cannot be verified without seeking clarification from the tenderer. The evaluation panel has some level of certainty concerning the validity of the claims.
Low	The claims made by the tenderer are not supported by evidence provided in the tender or in publicly accessible material. The evaluation panel has a low level of certainty concerning the validity of the claims.

Table B-3: Confidence Level Criteria

Risk Assessment

- The terminology to be used to determine the likelihood and consequence for risk ratings is to be taken from the TSRA Project Risk and Issue Register associated with Contract CA-2018-00004.
- When completing the Tender Evaluation Workbook, the evaluation panel is to consider the confidence level rating when determining the likelihood of the stated risk (in the eventuating for each of the qualitative criteria listed in Annex A.

PROCUREMENT PRINCIPLES

The TSRA adopts the principles underlying the Commonwealth Procurement Rules 4 which are:

1. Officials must act ethically, in accordance with the APS Values (set out in section 10 of the *Public Service Act 1999*) and Code of Conduct (set out in section 13 of the *Public Service Act 1999*), at all times in undertaking procurement.
2. Officials must not make improper use of their position.
3. Officials should avoid placing themselves in a position where there is the potential for claims of bias.
4. Officials must not accept hospitality, gifts or benefits from any potential suppliers.
5. Agencies must not seek to benefit from supplier practices that may be dishonest, unethical or unsafe.
6. All tenderers must be treated equitably. This means that all tenderers must be treated fairly – it does not necessarily mean that they are treated equally.
7. Conflicts of interest must be managed appropriately.
8. Probity and conflict of interest requirements should be applied with appropriate and proportionate measures informed by sound risk management principles.
9. Value for money outcomes are best served by effective probity measures that do not exclude suppliers from consideration for inconsequential reasons.
10. Confidential information must be treated appropriately during and after a procurement process.
11. External probity specialists should only be appointed where justified by the nature of the procurement.
12. The appointment of external probity specialists does not remove an agency's accountability for the procurement process.

CA-2018-00004

Company Name :

Tender Price (Excluding GST) : \$				
Tender Level of Effort (total number of charged hours / 8) in days				
Part 1	Preliminary Evaluation Criteria	Yes / No	Score	Comment is mandatory if the tenderer is deemed non-complaint with any criteria in Part 1.
1	Tender Authority			
1.1	The identity and contact details for the officer authorised to submit the tender has been provided.	-	0	
2	Basis of Price			
2.1	The total cost and the break-down of the cost can be identified.	-	0	
3	Commitment to Timeframe and Confidentiality			
3.1	The tenderer commits to deliver the services within the time-frame specified in the Statement of Work.	-	0	
4	Demonstrated Capacity			
4.1	The tender describes the skills and experience of the personnel nominated to deliver the contracted services.	-	0	
4.2	The level of effort is stated or can be clearly inferred from the response.	-	0	
5	Does the Tenderer address all the essential requirements in the Tender Document / Terms of Reference			
5.1	The tenderer demonstrates the capacity to undertake the services listed in the Statement of Work.	-	0	
5.2	The tenderer proposes to actively involve Torres Strait Islanders in the review.	-	0	
5.3	0	-	0	
5.4	0	-	0	
5.5	0	-	0	
6	Completeness of the Application			
6.1	The submission contains sufficient information to enable the Evaluation Panel to determine whether it represents value for money.	-	0	

Total Part 1 Score: 8

0

Tenderer's who score less than 11 points in part one have not met the mandatory requirements of the EOI and may be set aside by the Evaluation Panel.

Part One Compliance:

This tender is assessed as **Non-Compliant**

with the requirements of Part One.

Reason for non-compliance (if appropriate) and comments on the offered price

CA-2018-00004

Company Name :

Part 2	Qualitative Evaluation Criteria			
7	Demonstrated experience of working with remote Indigenous radio broadcasting, media and communication services.	Score 0 to 5	Deficiency	Comment is mandatory if the score for any Part 2 criteria is less than two or any non-minor deficiency is identified.
	Average Score	#DIV/0!		Description of Risk
	Weighting %	25%		
	Weighted Score	#DIV/0!		
	Level of Confidence	Not Defined		Will have limited ability to successfully undertake the project.
	Risk Likelihood	Not Defined		
	Risk Consequence	Major		
	Risk Rating	Not Defined		

8	Demonstrated knowledge and experience in digital media content creation and delivery, particularly in remote Indigenous community settings.	Score 0 to 5	Deficiency	Comment is mandatory if the score for any Part 2 criteria is less than two or any non-minor deficiency is identified.
	Average Score	#DIV/0!		Description of Risk
	Weighting %	25%		
	Weighted Score	#DIV/0!		
	Level of Confidence	Not Defined		Will have limited ability to successfully undertake the project.
	Risk Likelihood	Not Defined		
	Risk Consequence	Major		
	Risk Rating	Not Defined		

9	Demonstrated experience of Indigenous funding programme evaluation.	Score 0 to 5	Deficiency	Comment is mandatory if the score for any Part 2 criteria is less than two or any non-minor deficiency is identified.
	0	#DIV/0!		Description of Risk
	Weighting %	25%		
	Weighted Score	#DIV/0!		
	Level of Confidence	Not Defined		Will have limited ability to successfully undertake the project.
	Risk Likelihood	Not Defined		
	Risk Consequence	Major		
	Risk Rating	Not Defined		

10	Demonstrated experience in facilitating governance and strategic planning for Indigenous community cultural organisations.	Score 0 to 5	Deficiency	Comment is mandatory if the score for any Part 2 criteria is less than two or any non-minor deficiency is identified.
	Average Score	#DIV/0!		Description of Risk
	Weighting %	25%		
	Weighted Score	#DIV/0!		
	Level of Confidence	Not Defined		Will have limited ability to successfully undertake the project.
	Risk Likelihood	Not Defined		
	Risk Consequence	Major		
	Risk Rating	Not Defined		

Part 3	Summary of Evaluation	
	Criterion 7 Weighted Score	#DIV/0!
	Criterion 8 Weighted Score	#DIV/0!
	Criterion 9 Weighted Score	#DIV/0!
	Criterion 10 Weighted Score	#DIV/0!
	Total Weighted Score	#DIV/0!
	Deficiencies	
	Total Critical Deficiencies	0
	Total Significant Deficiencies	0
	Total Minor Deficiencies	0
	Overall Deficiency Assessment	-
	Confidence	
	Total High Confidence	0
	Total Medium Confidence	0
	Total Low Confidence	0
	Overall Confidence Assessment	Not Defined
	Risk	

Strengths and Weaknesses

CA-2018-00004

Company Name :		
Total Extreme Risk	0	
Total High Risk	0	
Total Medium Risk	0	
Total Low Risk	0	
Overall Risk Assessment	Not Defined	

Part 4	Value for Money	
	In comparison to the other tenderers, this tender ranks number for technical merit in accordance with the above criteria.	#DIV/0!
	In comparison to the other tenderers, this tender ranks number in their tendered price.	-
	In comparison to the other tenderers, this tender ranks number in our assessment of providing value for money.	-

Yoshiko Hirakawa
Evaluation Panel Chair
Date

Damon Lewis
Evaluation Panel Member
Date

Charlie Kaddy
Evaluation Panel Member
Date

THIS EVALUATION FORM IS PROVIDED TO TENDERERS FOR INFORMATION AND PROCESS TRANSPARENCY - DO NOT COMPLETE OR SUBMIT THIS FORM WITH YOUR TENDER RESPONSE.

STANDARD FORM CONTRACT



TSRA

www.tsra.gov.au

AGREEMENT

BETWEEN

TORRES STRAIT REGIONAL AUTHORITY

AND

Insert Consultant Name

in relation to Consultancy Services to:

Insert Title of Consultancy

THIS AGREEMENT is made on _____ 2017

PARTIES

Torres Strait Regional Authority ('TSRA') a body corporate established under the *Aboriginal and Torres Strait Islander Act 2005* of 1st Floor, Torres Strait Haus, Victoria Parade, THURSDAY ISLAND Queensland 4875.

ABN: 57 155 285 807

AND

Insert Consultant Name

Insert Consultant Address

ABN: **Insert Consultant ABN**

PURPOSE

- A The TSRA requires the provision of certain services as specified in the Schedule.
- B The Consultant has fully informed itself on all aspects of the work required to be performed and has submitted the proposal and quotation referred to in Item A of the Schedule [*Proposal and Quotation*].
- C TSRA has agreed to engage the Consultant to provide the Services upon the terms and conditions contained in this Agreement.

OPERATIVE PART

1. INTERPRETATION

1.1 In this Agreement, unless the contrary intention appears:

TSRA Material	means any Material: <ul style="list-style-type: none">(a) provided by the TSRA to the Consultant for the purposes of this Agreement; or(b) derived at any time from the Material referred to in paragraph (a);
Confidential Information	means information that: <ul style="list-style-type: none">(a) is by its nature confidential;(b) is designated by the TSRA as confidential; or(c) the Consultant knows or should know is confidential; but does not include information which:<ul style="list-style-type: none">(i) is or becomes public knowledge other than by breach of this Agreement or by any other unlawful means;(ii) is in the possession of the Consultant without restriction in relation to disclosure before the date of receipt from the TSRA; or(iii) has been independently developed or acquired by the Consultant.
Consultancy Services	means the services described in Item B [<i>Consultancy Services</i>] and includes the provision to TSRA of the Material specified in Item C [<i>Required Contract Material</i>];
Consultant	includes the officers, employees, volunteers, bailees, agents and subcontractors of the Consultant;
Contract Material	means any Material: <ul style="list-style-type: none">(a) created for the purposes of this Agreement;(b) provided or required to be provided to TSRA as part of the Consultancy Services; or(c) derived at any time from the Material referred to in paragraphs (a) or (b);
Copies	has the meaning defined in clause 9 [<i>Dealings with Copies</i>]
Intellectual Property	includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

Material	includes information and the subject matter of any category of Intellectual Property rights;
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;
Project Officer	means the person specified by name or position in Item K [<i>Project Officer</i>] or any substitute notified in writing to the Consultant;
Specified Personnel	means the personnel defined in clause 5 who will perform all or part of the work constituting the Consultancy Services; and
Writing	means any representation of words, figures or symbols capable of being rendered in a visible form.

- 1.2 In this Agreement, unless the contrary intention appears:
- (a) words importing a gender include any other gender;
 - (b) words in the singular include the plural and words in the plural include the singular;
 - (c) clause headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
 - (d) words importing persons include a partnership and a body whether corporate or otherwise;
 - (e) all references to dollars are to Australian dollars;
 - (f) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth as amended or replaced from time to time;
 - (g) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect to that word or phrase has a corresponding meaning;
 - (h) reference to an Item is to an Item in the Schedule;
 - (i) the Schedule and any attachments form part of this Agreement;
 - (j) where any conflict arises between the terms and conditions contained in the clauses of this Agreement and any part of the Schedule (and attachments if any), the terms and conditions of the clauses prevail;
 - (k) where any conflict arises between any part of the Schedule and any part of an attachment, the Schedule prevails; and
 - (l) reference to the Schedule (or an attachment) is a reference to the Schedule (or an attachment) to this Agreement, including as amended or replaced from time to time by agreement in writing between the parties.
- 1.3 This Agreement records the entire agreement between the parties in relation to its subject matter.
- 1.4 No variation of this Agreement is binding unless it is agreed in writing between the parties.
- 1.5 Any reading down or severance of a particular provision does not affect the other provisions of this Agreement.

2. PROVISION OF CONSULTANCY SERVICES

2.1 The Consultant agrees to:

- (a) perform the Consultancy Services in accordance with relevant leading practice, including any TSRA, Commonwealth and industry standards and guidelines specified in Item D [*Standards and Best Practice*];
- (b) comply with the time frame for the performance of the Consultancy Services specified in Item E [*Time-frame*]; and
- (c) liaise with the Project Officer, provide any information the Project Officer may reasonably require and comply with any reasonable request made by the Project Officer.

3. FEES, ALLOWANCES AND ASSISTANCE

3.1 The TSRA agrees to:

- (a) pay the fees specified in Item F [*Fees*];
- (b) pay the allowances and meet the costs specified in Item G [*Allowances and Costs*]; and
- (c) provide the facilities and assistance specified in Item H [*Facilities and Assistance*].

3.2 The TSRA will be entitled, in addition to any other right it may have, to delay payment or any instalment of fees or allowances until the Consultant has completed to the satisfaction of the TSRA that part of the Consultancy Services to which the payment relates. In the event TSRA is not satisfied that the Consultant is entitled to payment of that part of the Consultancy Services in accordance with this Agreement, it shall within 14 days advise the Consultant in writing of the reasons why it is dissatisfied with the Consultancy Services and how the Consultant must satisfy the TSRA of that part of the Consultancy Services to which the payment relates.

3.3 The Consultant agrees to submit invoices for payment in the manner specified in Item I [*Invoice Procedures*].

4. SUBCONTRACTORS

4.1 The Consultant agrees not to subcontract the performance of any part of the Consultancy Services without prior approval in writing from TSRA.

4.2 TSRA may impose any terms and conditions it considers appropriate when giving its approval under clause 4.1.

4.3 Despite any approval given by TSRA, the Consultant will be responsible for ensuring the suitability of a sub-contractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Agreement.

4.4 The Consultant states that at all material times to this Agreement they will maintain professional indemnity insurance for an amount of not less than one and a half million dollars (\$1,500,000).

5 SPECIFIED PERSONNEL

- 5.1 The Consultant agrees that the Specified Personnel identified in Item J [*Specified Personnel*] will perform work in relation to the Consultancy Services in accordance with this Agreement.
- 5.2 Where Specified Personnel are unable to perform the work, the Consultant agrees to notify TSRA immediately.
- 5.3 TSRA may, at its absolute discretion, request the Consultant to remove personnel (including Specified Personnel) from work in relation to the Consultancy Services.
- 5.4 Where clauses 5.2 or 5.3 apply, TSRA may request the Consultant to provide replacement personnel acceptable to TSRA at no additional cost and at the earliest opportunity.
- 5.5 If the Consultant does not comply with any request made under clause 5.4 TSRA may terminate this Agreement in accordance with the provisions of clause 20 [*Termination for Default*].

6 RESPONSIBILITY OF CONSULTANT

- 6.1 The Consultant agrees to be fully responsible for the performance of the Consultancy Services and for ensuring compliance with the requirements of this Agreement, and will not be relieved of that responsibility because of any:
- (a) involvement by the TSRA in the performance of the Consultancy Services unless the involvement impedes, delays or obstructs the performance of the service;
 - (b) payment made to the Consultant on account of the Consultancy Services;
 - (c) subcontracting of the Consultancy Services; or
 - (d) acceptance by the TSRA of replacement personnel.

7 TSRA MATERIAL

- 7.1 The TSRA agrees to provide Material to the Consultant as specified in Item L [*Material to be Provided by TSRA*].
- 7.2 The TSRA grants to the Consultant a royalty-free, non-exclusive licence to use, reproduce and adapt the TSRA Material for the purposes of this Agreement.
- 7.3 The Consultant agrees to ensure that all the TSRA Material is used strictly in accordance with any conditions or restrictions set out in Item M [*Use of TSRA Material*], and any direction by the TSRA.

8. INTELLECTUAL PROPERTY IN CONTRACT MATERIAL

- 8.1 Intellectual Property in all Contract Material vests or will vest in the TSRA.
- 8.2 Clause 8.1 does not affect the ownership of Intellectual Property in any existing Material which is specified in Item N [*Existing Material*], but the Consultant grants to the TSRA a permanent, irrevocable, royalty-free, world-wide, exclusive licence to use, reproduce, adapt and exploit any such existing Material in conjunction with the other Contract Material.
- 8.3 If requested by the TSRA, the Consultant agrees to bring into existence, sign, execute or otherwise deal with any document which may be necessary or desirable to give effect to this clause 8.

8.4 The Consultant warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property in the Contract Material in the manner provided for in this clause 8.

9. DEALINGS WITH COPIES

9.1 This clause 9 applies to any document, device, article or medium ('copies') in which the TSRA Material, Contract Material or Confidential Information is embodied.

9.2 Property in all copies vests or will vest in the TSRA.

9.3 The Consultant agrees to establish and maintain procedures to secure the copies against loss and unauthorised access, use, modification or disclosure.

9.4 Upon the expiration or termination of this Agreement the Consultant agrees to deliver to the TSRA or otherwise deal with all copies as directed by the TSRA.

9.5 This clause 9 applies subject to any provision to the contrary in Item O [*Dealings with Copies*].

10. DISCLOSURE OF INFORMATION

10.1 The Consultant agrees not to disclose to any person other than the TSRA, any Confidential Information relating to this Agreement or the Consultancy Services without prior approval in writing from the TSRA.

10.2 The TSRA may impose any conditions or restrictions it considers appropriate when giving its approval under clause 10.1.

10.3 The TSRA may at any time require the Consultant to give, and to arrange for its officers, employees, agents and subcontractors engaged in the performance of the Consultancy Services to give, undertakings in writing in a form required by the TSRA, relating to the non-disclosure of Confidential Information.

10.4 If the Consultant receives a request under clause 10.3 it agrees to arrange promptly for all such undertakings to be given.

10.5 The obligations on the Consultant under this clause 10 will not be taken to have been breached where the information referred to is legally required to be disclosed.

10.6 This clause 10 will survive the expiration or termination of this Agreement.

11. PROTECTION OF PERSONAL INFORMATION

11.1 The Consultant agrees to:

- (a) use Personal Information held or controlled by it in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (b) take all reasonable measures to ensure that Personal Information in its possession or control in connection with this Agreement is protected against loss and unauthorised access, use, modification or disclosure;

- (c) comply with the Information Privacy Principles contained in the *Privacy Act 1988* to the extent that the content of those principles apply to the types of activities the Consultant is undertaking under this Agreement, as if the Consultant were an agency as defined in the Act;
- (d) cooperate with any reasonable demands or inquiries made by the Project Officer on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Project Officer to comply with a guideline concerning the handling of Personal Information;
- (e) ensure that any person who has an access level which would enable that person to obtain access to any Personal Information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 11;
- (f) comply as far as practicable with any policy guidelines laid down by the TSRA or issued by the Privacy Commissioner from time to time relating to the handling of Personal Information; and
- (g) comply with any direction of the Project Officer to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Consultant that the Privacy Commissioner considers breaches the obligations in this clause 11.

12. COMPLIANCE WITH LAW

12.1 The Consultant agrees, in carrying out this Agreement, to comply with:

- (a) all relevant legislation of the Commonwealth (particularly the *Crimes Act 1914*, *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984* and *Disability Discrimination Act 1992*), or of any State, Territory or local authority; and
- (b) any obligations it has under the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*.

13. CONFLICT OF INTEREST

13.1 The Consultant warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no conflict with the interests of the TSRA exists or is likely to arise in the performance of the Consultancy Services.

13.2 If, during the performance of the Consultancy Services a conflict of interest arises, or appears likely to arise, the Consultant agrees to:

- (a) notify the TSRA immediately in writing;
- (b) make full disclosure of all relevant information relating to the conflict; and
- (c) take such steps as the TSRA may reasonably require to resolve or otherwise deal with the conflict.

13.3 If the Consultant does not notify the TSRA or is unable or unwilling to resolve or deal with the conflict as required, the TSRA may terminate this Agreement in accordance with the provisions of clause 20 [*Termination for Default*].

13.4 The Consultant agrees that it will not, and will use its best endeavours to ensure that any officer, employee, agent or subcontractor of the Consultant does not, engage in any activity or obtain any interest during the course of this Agreement that is likely to conflict with or restrict the Consultant in providing the Consultancy Services to the TSRA fairly and independently.

14. CONDUCT AT TSRA PREMISES

14.1 The Consultant agrees that when using the TSRA's premises or facilities for the purposes of the Consultancy Services, it will comply with all reasonable directions and procedures relating to occupational health, safety and security in operation at those premises or in regard to those facilities (including the TSRA's smoke-free work-place policy) whether specifically drawn to the attention of the Consultant or as might reasonably be inferred from the circumstances.

15. ACCESS TO CONSULTANT'S PREMISES

15.1 The Consultant agrees to give to the Project Officer, or to any persons authorised in writing by the Project Officer, reasonable access to premises occupied by the Consultant where the Consultancy Services are being performed, and permit those persons to inspect Material relevant to the Consultancy Services.

16. INDEMNITY

16.1 The Consultant agrees to indemnify the TSRA from and against any:

- (a) liability incurred by the TSRA;
- (b) loss of or damage to property of the TSRA; or
- (c) loss or expense incurred by the TSRA in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the TSRA, arising from:
 - (i) any act or omission by the Consultant, its officers, employees, agents or subcontractors in connection with this Agreement;
 - (ii) any breach by the Consultant of its obligations or warranties under this Agreement;
 - (iii) any use or disclosure by the Consultant, its officers, employees, volunteers, bailees, agents or subcontractors of Personal Information held or controlled in connection with this Agreement; or
 - (iv) the use by TSRA of the Contract Material,

where there was fault on the part of the Consultant whose conduct gave rise to that liability, loss or damage, or loss or expense.

16.2 The Consultant's liability to indemnify the TSRA under clause 16.1 will be reduced proportionately to the extent that any negligent act or omission of the TSRA contributed to the relevant liability, loss or damage, or loss or expense.

16.3 The right of the TSRA to be indemnified under this clause 16 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the TSRA is not entitled to be compensated in excess of the amount of the relevant liability, loss or damage, or loss or expense.

16.4 In this clause 16, "TSRA" includes officers, employees and agents of the TSRA.

16.5 This clause 16 will survive the expiration or termination of this Agreement.

17. INSURANCE

- 17.1 The Consultant agrees, for so long as any obligations remain in connection with this Agreement:
- (a) to effect and maintain the insurance specified in Item P [*Insurance*], for all the Consultant's obligations under this Agreement, including those which survive the expiration or termination of this Agreement; and
 - (b) upon request, provide proof of insurance acceptable to the TSRA.

18. DISPUTE RESOLUTION

- 18.1 The parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:
- (a) first, the party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute;
 - (b) secondly, the parties will try to resolve the dispute by direct negotiation, including by referring the matter to persons who may have authority to intervene and direct some form of resolution;
 - (c) thirdly, the parties have ten business days from the sending of the notice to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure; and
 - (d) lastly, either party may commence legal proceedings if:
 - (i) there is no resolution or agreement; or
 - (ii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 15 business days of the submission, or such extended time as the parties may agree in writing before the expiration of the 15 business days.
- 18.2 Despite the existence of a dispute, the Consultant will (unless requested in writing not to do so) continue to perform the Consultancy Services.
- 18.3 This clause 18 does not apply to:
- (a) action by either party under or purportedly under clause 20 [*Termination For Default*],
 - (b) action by TSRA under or purportedly under clause 3.2 [*Fees, Allowances and Assistance*], or clause 19 [*Termination and Reduction for Convenience*]; or
 - (c) either party commencing legal proceedings for urgent interlocutory relief.

19. TERMINATION AND REDUCTION FOR CONVENIENCE

- 19.1 The TSRA may, at any time by notice, terminate this Agreement or reduce the scope of the Consultancy Services immediately.
- 19.2 Upon receipt of a notice of termination or reduction the Consultant agrees to:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that termination and to protect the TSRA Material and Contract Material; and
 - (c) continue work on any part of the Consultancy Services not affected by the notice.
- 19.3 Where there has been a termination under clause 19.1, the TSRA will be liable only for:
- (a) payments and assistance under clause 3 [*Fees, Allowances and Assistance*] for services rendered before the effective date of termination; and

(b) reasonable costs incurred by the Consultant and directly attributable to the termination.

19.4 Where there has been a reduction in the scope of the Consultancy Services, the TSRA's liability to pay fees or allowances, meet costs or provide facilities and assistance under clause 3 [*Fees, Allowances and Assistance*] will, unless there is agreement in writing to the contrary, abate in accordance with the reduction in the Consultancy Services.

19.5 The TSRA will not be liable to pay compensation under clause 19.3(b) in an amount which would, in addition to any amounts paid or due, or becoming due, to the Consultant under this Agreement, together exceed the fees set out in Item F [*Fees*].

19.6 The Consultant will not be entitled to compensation for loss of prospective profits.

20. TERMINATION FOR DEFAULT

20.1 Where a party fails to satisfy any of its obligations under this Agreement, the other party if it considers that the failure is:

- (a) not capable of remedy, may, by notice, terminate this Agreement immediately; or
- (b) capable of remedy, may, by notice require that the failure be remedied within the time specified in the notice and, if not remedied within that time, may terminate this Agreement immediately by giving a second notice.

20.2 The TSRA may also, by notice terminate this Agreement immediately (but without prejudice to any prior right of action or remedy which either party has or may have) if the Consultant:

- (a) being a corporation, comes under one of the forms of external administration referred to in chapter 5 of the Corporations Law, or an order has been made for the purpose of placing the corporation under external administration; or
- (b) being an individual, becomes bankrupt or enters into a scheme of arrangement with creditors.

21. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

21.1 The Consultant agrees not to represent itself, and to use its best endeavours to ensure that its officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the TSRA, or as otherwise able to bind or represent the TSRA.

21.2 The Consultant is not by virtue of this Agreement an officer, employee, partner or agent of the TSRA, nor does the Consultant have any power or authority to bind or represent the TSRA.

22. WAIVER

22.1 If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

22.2 A single or partial exercise by a party of any of its rights does not prevent the further exercise of any right.

22.3 In this clause 22, 'rights' means rights or remedies provided by this Agreement or at law.

23. ASSIGNMENT AND NOVATION

- 23.1 The Consultant cannot assign its obligations, and agrees not to assign its rights, under this Agreement without, in either case, prior approval in writing from the TSRA.
- 23.2 The Consultant agrees not to do any act which has as its object an assignment of the Consultants obligations or rights under this agreement, without first consulting the TSRA.

24. APPLICABLE LAW

- 24.1 The laws of Queensland apply to this Agreement.

25. NOTICES

- 25.1 Any notice, request or other communication to be given under this Agreement is to be in writing and dealt with as follows:
- (a) if given by the Consultant to the TSRA – marked for the attention of the Project Officer at the address indicated in Item Q [*TSRA's Address for Notices*] or as otherwise notified by TSRA; or
 - (b) if given by the TSRA to the Consultant – signed by the Project Officer and marked with the address indicated in Item R [*Consultant's Address for Notices*] or as otherwise notified by the Consultant.
- 25.2 Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 25.3 A notice, request or other communication will be deemed to be received:
- (a) if delivered by hand, upon delivery;
 - (b) if sent by pre-paid ordinary post within Australia, upon the expiration of two business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

26. TAXES, DUTIES AND GOVERNMENT CHARGES

- 26.1 Subject to this clause, all taxes, duties and government charges ("Taxes") imposed or levied in Australia or overseas in connection with this Contract will be paid by the TSRA, or as the TSRA might arrange.
- 26.2 Without limiting clause 26.1, the TSRA will pay Goods and Services Tax ("GST") on the goods, services and other supplies made by the Consultant under this Contract ("the supplies") to the extent that they are taxable supplies within the meaning of the *A New Tax System (Goods and Services Tax Act) 1999* ("the GST Act")
- 26.3 In relation to any GST payable under clause 26.2, the Consultant will issue the TSRA with a tax invoice in accordance with the GST Act.

THE SCHEDULE

A. Proposal and Quotation

The Consultancy Services to be provided are described in the following documents.

- i. A proposal from the Consultant dated <<date>> and headed <<Title of the Tender response from the consultant>> (Attachment A)
- ii. Terms of Reference attached (Attachment A)

B. 'Consultancy Services' (see clauses 1.1 and 2.1)

<<Describe the services to be provided>>

C. Required Contract Material (see clauses 1.1 and 2.1)

i) <<list deliverables>>

ii) <<list deliverables>>

iii) <<list deliverables>>

D. Standards and Best Practice (see clause 2.1)

The Consultant is required to adhere to leading industry practices for equivalent services within the Australian Public Service (APS) framework as referenced in online publications available on the Australian National Audit Office website referenced "Commonwealth Procurement Guidelines and Best Practice Guidance".

E. Time-frame (see clause 2.1)

- (a) The Consultancy will commence upon execution of this contract.
- (b) The Required Contact Material <<Insert Cross Reference to relevant Item under Clause C>> are to be delivered by the consultant and accepted by the TSRA Project Officer (Item K) no later than <<Insert Date>>
- (c) The Required Contact Material <<Insert Cross Reference to relevant Item under Clause C>> are to be delivered by the consultant and accepted by the TSRA Project Officer (Item K) no later than <<Insert Date>>

F. Fees (see clauses 3.1 and 19.5)

The consultant will be paid <<Insert Tender Amount>> for the conduct of this consultancy.

The fee is based on a fixed price components being:

<<List the basis of fees>>

The schedule of payments is: <<Adjust as necessary>>

- (a) \$ Payment 1
- (b) \$ Payment 2
- (c) \$ Payment 3

G. Allowances and Costs (see clause 3.1) <<Adjust as negotiated>>

Unless otherwise specified in this Agreement, no allowances or other costs will be paid by the TSRA (If we are reimbursing consultant for travel please include that the travel will meet TSRA TA rates)

H. Facilities and Assistance (see clause 3.1)

Such normal office services and facilities as are reasonably required by the Consultant's personnel for the performance of the Consultancy Services will be provided at the TSRA's Office in Torres Haus, Victoria Parade, Thursday Island, for the duration of the consultancy.

I. Invoice Procedures (see clause 3.3)

The payment of fees for Consultancy Services will be processed within 30 days from the receipt of a correctly rendered invoice (a tax invoice which complies with the GST Act) including the following information:

- (a) title of Consultancy Services;
- (b) contract reference number; and
- (c) reference to the Fees Payment Schedule.

J. 'Specified Personnel' (see clauses 1.1 and 5)

The Consultant shall ensure that the Consultancy Services outlined in Item B are undertaken by the following persons connected with <<Name of Consultancy Firm>>

- (a) <<Insert Name and role>>
- (b) <<Insert Name and role>>
- (c) <<Insert Name and role>>
- (d) <<Insert Name and role>>

K. 'Project Officer' (see clauses 1.1 and 2.1)

<<Insert Name>>, <<Insert Title>> shall be the Project Officer with responsibility for supervision of the contract, on behalf of the TSRA and authority to issue and receive any written notification under the Contract.

L. Material to be Provided by TSRA (see clause 7.1)

The TSRA will provide the following material within five working days of Contract Execution:

- (a) <<List any material to be provided by TSRA to the consultant>>
- (b) <<List any material to be provided by TSRA to the consultant>>

M. Use of TSRA Material (see clause 7.3)

The TSRA Material shall remain the property of the TSRA and, on the expiration or earlier termination of this Contract, the Consultant shall return to the TSRA all TSRA Material if so requested.

N. Existing Material (see clause 8.2)

The Consultant identifies the following items as being Existing Material:

(a) *This is material that is already in existence that will be used in the delivery of the consultancy – i.e. current policies that will be used in a policy review etc*

(b)

O. Dealings with Copies (see clause 9.5)

The Consultant shall ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Contract.

P. Insurance (see clause 17.1)

Public Liability. The Consultant shall maintain workers' compensation insurance for an amount required by Queensland State Legislation, public liability insurance for an amount of not less than five million dollars (\$5,000,000).

Q. TSRA's Address for Notices (see clause 25.1)

Contract Officer
Torres Strait Regional Authority
PO Box 261
Thursday Island QLD 4875
contractadmin@tsra.gov.au

R. Consultant's Address for Notices (see clause 25.1)

<<Insert Address>>

SIGNED as an Agreement.

**SIGNED on behalf of the Torres Strait
Regional Authority by:**

(insert appropriate delegate)

Signature

Date

IN THE PRESENCE OF

Witness Name

Witness Signature

SIGNED on behalf of <<Name of Consultancy Firm>>

by:

Name

Signature

Position

Date

IN THE PRESENCE OF

Witness Name

Witness Signature

<<Statement of Work / Terms of Reference>> (Delete as applicable)

1. Task 1
2. Task 2
3. Task 3
4. Etc ...