



Request For Quotation - Supply of Goods
RFQ Formal Instrument of Agreement - Supply
of Goods
Template guide notes (Version 3 – December 2018)

Important information:

These guide notes are for use only in relation to Version 4 of the Request for Quotation - Supply of Goods and Version 4 of the RFQ Formal Instrument of Agreement - Supply of Goods.

These guide notes are of a general nature only and must not be relied upon as a substitute for seeking specific legal advice. If you have any legal queries about the templates, contact the Office of the Crown Solicitor.

Request for Quotation - Supply of Goods

RFQ Formal Instrument of Agreement - Supply of Goods

Template guide notes (Version 3 – December 2018)

1 About these guide notes

These guide notes are issued by the Office of the Crown Solicitor (**OCS**) to provide guidance in relation to the use of the following template documents:

- Request for Quotation – Supply of Goods (Version 4) (**RFQ Goods**); and
- RFQ Formal Instrument of Agreement – Supply of Goods (Version 4) (**FIOA Goods**).

These notes are not a substitute for seeking legal advice from OCS. Any legal queries in relation to the templates should be referred to OCS.

Please contact OCS with suggestions as to how the template documents can be improved.

Any queries in relation to procurement policy or practice should be directed to the Department of Treasury and Finance.

2 Template limitations and use exclusions

The template documents are intended for use in relation to the procurement of goods by way of a quotation process.

The template documents are suitable for use only in relation to *procurements that are both low risk and low value*.

Warning: The template documents must not be used for:

- transactions that are high risk (for example, because of the consequences of the State receiving faulty goods);
- transactions that are complex;
- standing offer arrangements for the purchase of goods;
- any procurement where it is also necessary for the supplier to provide on-going services;
- any procurement of a vessel of any kind;
- any IT procurement to which the Treasurer's Instruction 1123(2) applies;
- any procurement which involves the Crown approving the design of the goods; or
- any procurement in respect of which the Treasurer's Instructions require an agency to call tenders (in such cases the OCS templates applicable to Requests for Tender should be used).

3 RFQ Goods template

3.1 RFQ Goods template structure

The RFQ Goods template consists of the following parts:

- Part A: RFQ Overview
- Part B: RFQ Information Table
- Part C: Contract Information Table
- Part D: Glossary of Terms
- Part E: Conditions of Quotation
- Part F: Conditions of Contract
- Part G: Quotation Form

3.2 Quotation procurement process

The general terms and conditions applicable to the procurement itself are contained in Part E: Conditions of Quotation. Transaction specific information about the *procurement process* (ie information about the calling, lodgment and evaluation of quotations) is inserted in Part B: RFQ Information Table.

Item 8 of the RFQ Information Table allows for the inclusion of special conditions. If it is necessary to change the Conditions of Quotation, the change should be made by completing Item 8.

Special conditions override what is contained in the Conditions of Quotation to the extent of any inconsistency, so care should be taken when drafting these.

3.3 Contractual information

The general terms and conditions applicable to the supply of the goods are contained in Part F: Conditions of Contract.

Transaction specific information that is '*contractual*' (ie information that applies to the supply of the goods) is inserted in Part C: Contract Information Table.

Item 8 of the Contract Information Table allows for the inclusion of special conditions. If it is necessary to change the Conditions of Contract, the change should be made by completing Item 8. Special conditions override what is contained in the Conditions of Contract to the extent of any inconsistency, so care should be taken when drafting these.

3.4 Quotation form

Part G contains a Quotation Form for use by suppliers submitting a quotation. The Quotation Form constitutes an offer by the supplier to supply the goods. Part G also includes a section titled 'Acceptance Statement'.

3.5 Forming a contract

The RFQ Goods template provides that a contract for the supply of the goods can be formed in one of two ways:

- (1) A contract can be formed by the State accepting the supplier's quotation as submitted and without further negotiation. In this scenario, a contract for the supply of the goods will be formed if the State signs and dates the Acceptance Statement at the end of the Quotation Form in Part G.

Warning: The Acceptance Statement should only be used as the method to form a contract if, and only if, the State accepts the quotation as submitted by the supplier without *any* further negotiation or alteration.

Warning: Because a contract can be formed by the State signing an Acceptance Statement it is important that a RFQ Goods document is *never* sent to a prospective supplier as an 'unprotected' Word document.

- (2) A contract can be formed as a result of the State and the supplier entering into a formal instrument of agreement. A formal instrument of agreement should be used when there have been '*post-quotation*' negotiations or changes to the RFQ Goods document.

The RFQ Goods template gives the agency the choice of which method of contract formation to use. If a contract is formed by the signing of the Acceptance Statement in Part G, the agency must comply with the requirements set out in clause 20 (Alternative 1) in Part E: Conditions of Quotation.

4 FIOA Goods template

The FIOA Goods template is for use when a contract for the supply of goods is to be formed by the parties signing a formal instrument of agreement (the second alternative above). The FIOA Goods template should only be used where the RFQ Goods template has been used to call for quotes.

The FIOA Goods template has been designed as a 'stand alone document'. It is not necessary to attach the RFQ Goods document to the formal instrument of agreement.

The FIOA Goods template includes a Contract Information Table. The table has been designed so that the transaction specific contract information, to the extent not varied by agreement with the supplier during any post-quotation negotiations, can be 'cut and pasted' from the Contract Information Table in the RFQ Goods document issued as part of the procurement process.

The FIOA Goods template also includes, in Attachment 1, the Conditions of Contract from the RFQ Goods template. If you make *any* changes to the text of the Conditions of Contract in the RFQ template before this is issued, the identical changes must be made to the Conditions of Contract in the FIOA Goods template.

The FIOA Goods template also includes a section (Attachment 2) to incorporate relevant '*post-quotation*' correspondence.

5 Completing the RFQ Goods template

5.1 Notes about document styles

The document has been designed using specific documents styles. All of the styles in use in the RFQ Goods template commence with the letters 'RFQ'. If you 'cut and paste' any text from another document into the RFQ Goods template, you *must* convert that text to the appropriate RFQ style.

5.2 Important points

'Grey text' used in the RFQ Goods template contains instructions to drafters on how to complete the template. All 'grey text' must be removed before the RFQ Goods is issued to prospective suppliers.

Do not make substantial changes to the Conditions of Quotation or the Conditions of Contract. If you need to make substantial changes, more likely than not, the template is *not* suitable for use in relation to the procurement.

5.3 Text above Part A

Users of the template need to insert in this 'part' of the RFQ Goods template:

- A concise description of the goods in respect of which quotations are being sought. You need to make sure that the description of the goods is consistent with the description of the goods to be inserted in Item 1 of the Contract Information Table.
- The name of the Department seeking quotations.

Warning: The template has been drafted for use by the State of Tasmania acting through a department. The template can be adapted for use by a corporate entity that can enter into contracts, and sue and be sued in its own name; for example, the Director of Housing, the Tasmanian Health Service, and the WorkCover Board. In this situation, the user of the template must:

- Omit the words 'THE STATE OF TASMANIA' and substitute the corporate name of the entity.
- Omit the words 'the State' wherever occurring and substitute a short form name for the entity (for example, for the Director of Housing, 'the Director').

5.4 Part A: RFQ Overview

Insert the Contact Officer's details.

5.5 Part B: RFQ Information Table

Item 1: Closing date and time for lodgement of a Quotation

Insert the closing date *and time* for lodgement of quotation (for example, '4 pm on 1 May 2012').

Item 2: Pre-quotation briefing session details

Select only one of the alternatives.

Item 3: Place and method of lodging a Quotation

Insert place of lodgement: for example - street address; email address and/or facsimile number. Method must include one electronic option for lodgment. Set out any specific requirements such as how the envelope/email/facsimile is to be marked/headed; number of copies required; electronic media required, eg copy on disk or CD; electronic format required, eg Microsoft Word, PDF, etc.

Item 4: Status of Quotation

Item 4 makes it clear that quotations constitute an offer capable of acceptance in the same way as a submitted tender. Item 4 must not be deleted or amended.

Item 5: Information to be provided by suppliers as part of Quotation

This section should provide a checklist of the information to be provided by suppliers (specifying required format and quantity). The requested information should enable the agency to assess the quotation and the content of same will depend on the particular requirements of the procurement together with the evaluation criteria adopted.

This may include such items as:

- evidence of capacity or capability of the supplier;
- assurance of continuity, availability and accessibility of the supplier;
- evidence of insurance;
- references and/or referee contact details;
- details of any limit of the supplier's liability under any Scheme in force under the *Professional Standards Act 2005*;
- a declaration of any actual, perceived or potential conflict of interest and how any conflict of interest may be managed; and/or
- copies of annual reports, financial statements, quality assurance certificates, etc.

Warning: Any information listed in Item 5 will need to be repeated in the table headed 'Information/Document Description' in Part G: Quotation Form.

Item 6: Evaluation criteria

The RFQ Goods template is intended for use in relation to procurements that are both low risk and low value. Accordingly, the template does not include complex evaluation criteria and there are no mandatory conditions of participation.

Where appropriate, Item 6 can be amended to include mandatory conditions of participation and specific evaluation criteria and weightings.

For example:

The State will exclude a Quotation from further consideration if the State considers that the Quotation does not satisfy any of the following mandatory conditions for participation:

[Insert any conditions for participation, eg solvency and financial viability; OH&S standards or EEO requirements; mandatory insurance policies/levels; relevant licences; professional accreditations or registrations; compliance with draft contract terms]

Quotations that meet the mandatory conditions for participation will be evaluated against the following criteria and weightings to achieve the best outcome for the Government.

[Insert relevant evaluation criteria including any weightings. Guidance information is available in the template Quotation Evaluation and Probity Plan (low risk/low value) template available from the Purchasing website (Buying for Government>Resources>Forms)]

Item 7: Notification of outcome

Insert the date by which it is anticipated that successful supplier will be notified of the outcome.

Item 8: Special Conditions form part of the Conditions of Quotation

Item 8 allows drafters to include any special conditions relevant to the procurement process. Refer to paragraph 3.2 above.

5.6 Part C: Contract Information Table

Item 1: Goods to be supplied

Insert a detailed description of the Goods to be supplied including, where relevant, the quantity of the Goods.

Item 2: Specifications applicable to the Goods to be supplied

Insert a specification for the Goods to be supplied. Where applicable, adopt an Australian standard for the Goods.

Item 3: Delivery date or date for the Goods to be supplied

Insert the dates or dates by which the Goods are to be delivered.

Item 4: Location for the delivery of the Goods

The street address and, if applicable, the relevant office or part of a building, should be inserted as the place for delivery of the Goods.

Item 5: Warranty Period

Insert any warranty period applicable to the Goods. The Supplier will be required to make good any defects in the Goods that are notified by the State to the Supplier during the Warranty Period.

Warning: The Supplier's obligation under clause 5 of the Conditions of Contract in Part F is to promptly *make good* any defects in the Goods that are notified by the State to the Supplier not later than 5 Business Days after the expiry of the Warranty Period. Defects can be made good by repair, rather than replacement. If the Goods to be supplied are of a kind where repair is not practicable, consider inserting a special condition in Item 8 of the Contract Information Table that requires the replacement of the Goods if they are defective.

Item 6: Insurance

Consideration should be given to the types and levels of insurance required. OCS' view is that, in the context of the intended use of the templates (*procurements that are both low risk and low value – refer paragraph 2 above*), insurance will generally not be necessary for most procurements. If insurance is not required, Item 6 should be completed as 'Not Applicable'.

However, there are some scenarios where insurance may be required. A possible situation is where the goods in question need to be installed at the delivery location. In this situation, it may be appropriate to require the Supplier to have public liability insurance. If public liability insurance is considered relevant complete Item 6 as follows:

The Supplier must have a public liability insurance policy in force during the period commencing on the date of the Contract and ending on:

- (a) if there is a Warranty Period for the Goods, a date not earlier than the expiry of the Warranty Period; and
- (b) in any other case, a date not earlier than 20 Business Days after the delivery of all of the Goods.

In this example, no amount for insurance has been specified which will often be appropriate in relation to procurements that are both low risk and low value.

Where guidance is required in relation to the type or value of insurance relevant to any particular procurement reference may be had to the Tasmanian Risk Management Fund publication, *Guidelines for Determining Appropriate Levels of Insurance for Goods and Services Contracts* which is available from the Treasury website ([Quick Links>Tasmanian Risk Management Fund>Guidelines>Contracts>Guide to Managing Insurance in Contracts](#)). Agencies may also seek advice from the Government's insurance broker, Jardine Lloyd Thompson Pty Ltd.

Item 7: Notices

Insert relevant notice details.

Warning: Note that the template does not permit the giving of notices by email.

Item 8: Special conditions forming part of the Conditions of Contract

Insert in Item 8 any relevant special conditions.

For example, if the Contractor is responsible for the installation of the Goods, insert details for the required installation:

The Supplier is responsible for the installation of the Goods at the location for the delivery of the Goods. The Goods must be installed in a proper and workmanlike manner. The delivery of the Goods is not complete until the installation of the Goods has been completed.

Another example is where payment by periodic installment is required. As the Conditions of Contract provide for a single lump sum payment in respect of the Contract Sum (clause 7), consider inserting a special condition in relation to periodic installments in Item 8.

Warning: As detailed in paragraph 3.3 above, special conditions will override inconsistent provision in the Conditions of Contract. If you insert special conditions in Item 8 consider whether the condition will operate to negate any of the terms and conditions in the Conditions of Contract. If so, OCS advice should be sought.

6 Completing the FIOA Goods

6.1 Notes about document styles

As for the RFQ Goods template, the FIOA Goods has been designed using specific documents styles. Refer to paragraph 5.1 for information on 'cutting and pasting' text.

6.2 Details table

As for the RFQ Goods template, complete the details table in the FIOA Goods as required and where necessary, adapt for use by a corporate entity (refer paragraph 5.3 above).

6.3 Contract Information Table

The Contract Information Table in the FIOA Goods essentially mirrors the Contract Information in the RFQ Goods template, – as a result the instructions in paragraph 5.6 above are generally applicable to the completion of the Contract Information Table in the FIOA Goods.

There is an important exception. The Contract Information Table in the FIOA Goods includes an Item 9. This Item should be completed to show the Contract Sum payable for the Goods as accepted by the State or agreed with the Supplier during post quotation negotiations.

6.4 Signing page

If using the FIOA Goods template, insert an execution clause for the Supplier. A suitable execution clause should be 'copied and pasted' from the RFQ Goods template.

6.5 Attachment 2

Where there are Addenda and post-quotation correspondence, insert:

The following Addenda and post-quotation correspondence forms part of this Contract:
[insert details].

If there are no Addenda and no post-quotation correspondence, insert:

No Addenda were issued by the State.

There is no post-quotation correspondence that forms part of this Contract.

DTF_39122_Guide Notes Goods_CS000373