



Australian Government
Department of Foreign Affairs and Trade

MINUTE – EVALUATION OUTCOME

Subject:	Approval of Evaluation Outcome for the Australian Pacific Technical Coalition (known as APTC Phase 3)
For:	Blair Exell, A/g Deputy Secretary, GPG s22(1)(a)(ii) 4/3/18
Through:	s22(1)(a)(ii)
Cc:	Michael Wilson, A/g First Assistant Secretary, DPD
From:	s22(1)(a)(ii) 5/3/18
Estimated Initial Period and Value	Initial Period: Four (4) years and two and a half (2.5) months (16 April 2018 – 30 June 2022). Estimated Initial Value: AUD128,750,000 excluding GST
Estimated Option Period available and Value	Estimated Option Period: up to four (4) years (1 July 2022 – 30 June 2026). Estimated Option Value: AUD128,000,000 excluding GST <i>Note: The Delegate is only approving the Initial Value (exclusive of any options) at this point.</i>
Estimated Potential Total Value	Estimated Potential Total Period: Eight (8) years and two and a half (2.5) months (16 April 2018 – 30 June 2026). Estimated Potential Total Value of the Agreement: AUD256,750,000 excluding GST
Attachments	<ol style="list-style-type: none"> 1. Approval to Approach the Market Minute; 2. Evaluation Plan; 3. Probity Certificate; 4. Evaluation Committee (EC) Shortlisting Scores and Scoring Scale; 5. EC Comments on the Technical Assessment (Post-interview); and Commercial and Risk Assessment; 6. Past Performance – Partner Performance and Strategic Partner Assessment Information; 7. EC Technical Recommendation and Final Scores; 8. Commercial analysis; and 9. EC Value for Money Recommendation.

PURPOSE

1. The purpose of this minute is to seek your approval:
 - a) of the outcome of the evaluation for the **Australian Pacific Technical Coalition (known as APTC 3)** valued at up to AUD128,750,000 exclusive of GST, over four years and two and a half months, to commence negotiations with the preferred supplier, s47G and
 - b) to commence negotiations with the second preferred supplier, s47G in the event agreement cannot be reached with s47G
2. Approval of this Evaluation Outcome Minute does not represent an expenditure commitment.

CONFIDENTIALITY

3. DFAT staff have obligations under section 70 of the *Crimes Act* and section 25 of the *Public Governance, Performance and Accountability Act (PGPA)* to ensure probity and confidentiality. Any breach of probity and confidentiality by any individual or organisation involved in a selection process for a supplier may necessitate cancelling the process, re-advertising the

process, and exposes DFAT to challenges from suppliers. This applies to procurement and grants.

4. The details of all aspects of this selection, including which companies bid, their submissions, and their performance must be kept in confidence before and after the award of an agreement.
5. This minute or its contents must not be shared or discussed within, or outside of, DFAT without approval from the Assistant Secretary, Contracting Services Branch (CVB). Please return this Evaluation Outcome Minute to CVB.
6. CVB is to be the sole point of communication with suppliers, including negotiations with any preferred supplier.

BACKGROUND

7. Since 2007, over 10,000 Pacific Islander women and men have graduated with Australian qualifications in a wide range of sector such as automotive, manufacturing, construction, electrical, tourism, hospitality, health and community services from APTC Phase 1 and 2. APTC has also helped raise the quality of technical and vocational education and training (TVET) in the Pacific.
8. The contract for APTC Phase 2 has been delivered by a consortium led by TAFE Queensland
s47G It is due to end on 30th June 2018.
9. DFAT has a requirement to engage a managing contractor for implementation of Australia Pacific Technical Coalition (known as APTC3).
10. APTC3's goal is to achieve a more skilled, inclusive and productive workforce that enhances Pacific prosperity across nine Pacific Island countries (PICs) - Fiji, Kiribati, Nauru, PNG, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Its supporting purpose is that skills and attributes available to employers from TVET systems align with labour market requirements in PICs.
11. The end-of-program outcomes of APTC3 are:
 - a) Graduates have improved employment outcomes;
 - b) Co-investment in skills training increases; and
 - c) Selected TVET partners demonstrate quality TVET provision.
12. The Investment Concept for APTC3 approved by DFAT's Aid Investment Committee on 13 October 2016 and the final Design was approved on 18 September 2017.
13. The contract is expected to be in place by 16 April 2018 to allow for a smooth transition of novated staff and assets including student databases in line with the upcoming student semester.

APPROACH TO MARKET

14. The approach to market was conducted in accordance with the *Approval to Approach the Market* Minute (Attachment 1) approved by Penny Williams on 22 September 2017 and the Evaluation Plan (Attachment 2) approved by Rob Christie on 9 October 2017.
15. The procurement followed the timeline shown in Table 1 below:

Table 1: Tender Timeline

RFT released	Industry briefing	RFT closed	Conformity checks	EC shortlisting	EC interviews and assessment
20 October 2017	2 November 2017	8 January 2018	8-9 January 2018	15 January 2018	22-24 January 2018 and 9 February 2018

16. The mandatory minimum requirements for Indigenous participation does not apply as this contract is delivered overseas.

INDUSTRY BRIEFING

17. An industry briefing was held in Canberra on 2 November 2017. Representatives from DFAT's Pacific Education team (now part of the Development Policy and Education Branch), the Pacific Labour Facility team and Contracting Services Branch presented an overview of APTC 3 and the RFT process. Representatives from thirteen (13) suppliers attended the industry briefing.

PROPOSALS RECEIVED

18. Proposals were received from the following four (4) tenderers:

s47G

EVALUATION PROCESS

19. The evaluation was managed by CVB in accordance with the approved Evaluation Plan, the Request for Tender (RFT) and DFAT's Procurement Policy.
20. An independent external Probity Adviser, s47F(1) was engaged to provide oversight of the process and manage probity issues if they arose. The Probity Adviser has certified through the *Probity Certificate* (Attachment 3) that the process was conducted fairly and equitably and in accordance with the approach to market document, and the Commonwealth Procurement Rules.
21. The following evaluation process was undertaken to assess all proposals:
- a) a conformity check of all tenders received;
 - b) a technical assessment using the evaluation criteria detailed in the RFT, including a shortlisting based on technical suitability, and interviews of those shortlisted;
 - c) consideration of referee reports and past performance information, where available;
 - d) a commercial assessment, including resourcing and price assessment;
 - e) an overall risk assessment, including the risks identified in the technical and commercial assessments, contractual compliance and a financial viability assessment; and
 - f) an overall value for money assessment which considered the following aspects:
 - i. technical assessment;
 - ii. commercial assessment;
 - iii. overall risk assessment;
 - iv. Economic Benefit to Australian Economy; and
 - v. Any other matters which DFAT considers relevant.
22. An Evaluation Committee (EC) comprised of four members including three (3) external independent EC members was formed in accordance with the approved Evaluation Plan. The EC Secretariat comprised of Chair s22(1)(a)(ii) and then s22(1)(a)(ii) and Secretary s22(1)(a)(ii) and then s22(1)(a)(ii).

CONFORMITY CHECK

23. A conformity check was undertaken of all tender proposals to ensure tenderers met mandatory minimum format and content requirements and conditions for participation as detailed in the RFT. All four (4) proposals were accepted as conforming and sent to the EC for assessment.

TECHNICAL ASSESSMENT - SHORTLISTING

24. Following an initial assessment of the technical proposals, the Evaluation Committee met on 15 January 2018 and shortlisted the following three tenderers for interview:

s47G

25. The shortlisting scoresheet is shown as Attachment 4, whilst a summary of key strengths, weaknesses and risks identified by the EC for each tenderer is provided in Attachment 5. s47G
s47G was not shortlisted for interview as the EC considered them not technically suitable. s47G shortlisting score of 42.00 out of 100.00 placed them fourth, which was well below the next ranked tenderer at third place, with a score of 70.50

ECONOMIC BENEFIT TO THE AUSTRALIAN ECONOMY

26. The EC considered the three shortlisted tenderer proposals in regards to the economic benefits to the Australian economy. All three had strategies which were likely to be realised and were rated as delivering minor benefits to the Australian economy.

VALUE FOR MONEY ASSESSMENT

27. The value for money assessment undertaken by the EC considered the technical, commercial and risk elements of the three shortlisted proposals, shown in more detail in the paragraphs below.
28. The EC deemed s47G as offering the best value for money and recommended it as preferred tenderer.
29. The focus of the EC's assessment was on the two proposals rated technically highest, with risk mitigation the main point of difference between the two bids. The EC considered that the main risk with s47G could more easily be mitigated than the main risk with the s47G was therefore deemed second preferred and reserve tenderer. The risks associated with the s47G were considered to be un-mitigatable, with the EC assessing s47G as not preferred.
30. The overall VFM Assessment is shown in Table 2 below and is reflected in the EC's comments (Attachment 5) and the VFM Recommendation (Attachment 9):

Table 2: VFM Assessment

Supplier	Technical Score	Tenderer Price (\$)	Tenderer Price Points (\$ per technical point)	Overall Risk Rating (after mitigation)	Overall VFM Ranking
s47G					Preferred tenderer
					Second preferred / reserve tenderer
					Not Preferred

TECHNICAL ASSESSMENT

Interviews

31. The EC met from 22 to 24 January 2018 to conduct interviews for the three shortlisted tenderers and adjusted their scores based on interview performance. The EC continued their discussions via teleconference on the 9 February to finalise the commercial, risk and value for money assessment.

32. The final EC scores and ranking is shown in Table 3 below. The EC Technical Recommendation is provided at Attachment 7.

Table 3: Technical Scores

Ranking	Supplier	Initial Score (Shortlisting)	Final Score (Post-Interview)	Technically Suitable (yes/no)	Technical Risk
First (1 st)	s47G				
Second (2 nd)					
Third (3 rd)					
Fourth (4 th)					

Performance information

33. The EC considered performance reports compiled by CVB on tenderers' past performance (Attachment 6). This is in accordance with DFAT's partner performance policy, which requires annual assessments of DFAT partners and advisers be taken into consideration during the tender evaluation process.

34. s47G

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37.

COMMERCIAL ASSESSMENT

38. The commercial assessment considered each tenderer's compliance with the pricing requirements in the RFT, resource profile and any price risks.
39. The RFT listed the budget for the initial term of four (4) years as being AUD128,000,000 excluding GST. This amount includes AUD5,203,632.50 for the cost of novated personnel (teaching and administrative staff from APTC 2) for six months.

Price Assessment

40. In the Commercial Proposal, tenderers provided costings for the following categories (exclusive of GST):
- a) Management Fees;
 - b) Personnel Costs;
 - c) Adviser Support Costs; and

d) Method of Payment for Management Fees.

41. The EC assessed each tenderer's Commercial Proposal including commercial risk. Extracts from the commercial analysis are shown in Tables 4 to 7 below.

Table 4: Price comparison and Risk Rating

Item	s47G
Management Fees	
Advisers / Personnel	
Adviser Support Costs	
Total Tenderer costs	
Price Ranking	
Risk Rating (after mitigation)	

Table 5: Technical price points

	s47G
Technical Price	
Technical score/points	
\$ per technical point*	

*Total Fees divided by Technical Points

Table 6: Resourcing summary

	s47G
Long Term Advisers ARF	
Long Term non-ARF personnel	
Short Term Advisers ARF	
Short Term non-ARF personnel	
Short term ARF Associates	
Contractor Representative	

Table 7: Management Fee Payment Terms

	s47G
Fee paid on achievement of milestones % (such as reports)	
Fee, paid on achievement of contract/program deliverables	
Fee, paid on achievement of Partner Performance Assessments (PPA) results	

42. The key cost drivers and benefits of the proposals have been summarised as follows:

s47G

s47G

43.

RISK ASSESSMENT

44. The EC undertook a risk assessment to consider tenderers' compliance with the draft contract, financial viability, due diligence, technical risks and commercial risks (please refer to attachment 5 for risk assessment comments). A component of the risk assessment also included noting the key details from each of the *Financial and Performance Assessment (FPA)* undertaken on the tenderers by s47G. Copies of the FPA reports are available on request.

s47G

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48. s47G

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51.

NEGOTIATION ISSUES

- 52. Contract negotiations will be led by Contracting Services Branch in consultation with the program area.
- 53. The EC identified the following technical, commercial and risks to be mitigated during contract negotiations with the preferred and reserve tenderer.

s47G

54.

s47G

RECOMMENDATION

55. It is recommended that you approve:

The outcome of the evaluation for the provision of the Australian Pacific Technical Coalition (known as APTC 3) DFAT-162 tender	APPROVED NOT APPROVED / DISCUSS
Commencement of negotiations with ^{s47G} (as the preferred supplier)	APPROVED NOT APPROVED / DISCUSS
Commencement of negotiations with ^{s47G} (reserve supplier) in the event agreement cannot be reached with ^{s47G}	APPROVED NOT APPROVED / DISCUSS

DELEGATE APPROVAL OF EVALUATION OUTCOME

As the responsible delegate I confirm that:

- ☒ I currently hold the required delegation/s to approve this evaluation outcome;
- ☒ I do not stand to make a personal gain, monetary or otherwise and there is no real or perceived conflict of interest;
- ☒ I am satisfied that this evaluation outcome would be a proper use of Commonwealth resources;
- ☒ I am satisfied that the evaluation process followed has been appropriate and has met required standards of probity;
- ☒ I am satisfied that the outcome of the evaluation process will maximise value for money;
- ☒ I am satisfied that risk has been appropriately addressed during the evaluation process and that remaining risks will be appropriately addressed during negotiations;
- ☒ Sufficient funds are available to cover the cost of the proposed agreement;
- ☒ The proposed agreement is not inconsistent with Commonwealth policy;
- ☒ The proposed agreement promotes achievement of the Department's objectives;
- ☒ I have made reasonable inquiries to ensure this agreement is consistent with all required policies and process, including the *Public Governance, Performance and Accountability Act 2013* and associated rules, DFAT's Financial Management Manual and DFAT's Procurement Policy.

s22(1)(a)(ii)

Blair Exell, A/g Deputy Secretary, GPG

Date

9/3/18

s22(1)(a)(ii)

From: Pacific Labour Data
Sent: Thursday, 14 July 2022 2:24 PM
To: Helen McCormack; Carli Shillito
Cc: s22(1)(a)(ii)

Subject: RE: PALM figures at the end of June 2022 [SEC=OFFICIAL]

OFFICIAL

Good afternoon all

s22(1)(a)(ii)

Table 4: PALM Workers in Australia by Program Industry (High level industries)

Row Labels	SWP	PLS	Total
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s22(1)(a)(ii)

Total	15676	9469	25145
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Table 5: PALM Workers in Australia by Program Industry (Low level industries)

Industry	Total
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s22(1)(a)(ii)

s22(1)(a)(ii)

Total

25145

Apologies for any inconvenience this may cause.

s22(1)(a)(ii)

Office of the Pacific - Pacific Labour Operations Division
 Pacific Labour Operations Branch – PALM Data, Quality and Performance
 Department of Foreign Affairs and Trade, Australia www.dfat.gov.au
 PH: s22(1)(a)(ii) | Email: s22(1)(a)(ii)
 PO Box 1088 Townsville QLD 4810 | Level 2, 19 Stanley Street, Townsville 4810

From: Pacific Labour Data

Sent: Friday, 8 July 2022 10:43 AM

To: Helen McCormack <Helen.McCormack@dfat.gov.au>; Carli Shillito <Carli.Shillito@dfat.gov.au>

Cc: s22(1)(a)(ii)

Subject: PALM figures at the end of June 2022 [SEC=OFFICIAL]

OFFICIAL

Good morning all

Please see below PALM data to the end of June s22(1)(a)(ii)

Table 1: PALM Workers in Australia by State and Country of Origin*

Country	ACT	NSW	NT	QLD	SA	TAS	Vic	WA	Total
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s22(1)(a)(ii)

s22(1)(a)(ii)

Grand Total	5	4688	649	9122	1808	2133	4167	2573	25145
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**Includes 1007 PLS workers who are in Australia but currently employed
As at end of June 2022*

Table 2: PALM Workers in Australia by Program and Country of Origin

Country	SWP	PLS	Total
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s22(1)(a)(ii)

Total	15676	9469	25145
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Table 3: PALM Workers in Australia by Program and State

State	SWP	PLS	Total
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s22(1)(a)(ii)

Total	15676	9469	25145
-------	-------	------	-------

Table 4: PALM Workers in Australia by Program Industry (High level industries)

Row Labels	SWP	PLS	Total
------------	-----	-----	-------

s22(1)(a)(ii)

Table 5: PALM Workers in Australia by Program Industry (Low level industries)

Industry	Total
s22(1)(a)(ii)	

Total	25145
-------	-------

s22(1)(a)(ii)

s22(1)(a)(ii)

Warm regards

s22(1)(a)(ii)

Office of the Pacific - Pacific Labour Operations Division
Pacific Labour Operations Branch – PALM Data, Quality and Performance
Department of Foreign Affairs and Trade, Australia www.dfat.gov.au
PH: s22(1)(a)(ii) | Email s22(1)(a)(ii)
PO Box 1088 Townsville QLD 4810 | Level 2, 19 Stanley Street, Townsville 4810

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Monday, 9 October 2017 1:30 PM
To: s22(1)(a)(ii)
Cc: Robert Christie; McGee, Tony
Subject: approved APTC3 evaluation plan [SEC=UNCLASSIFIED]
Attachments: APTC3 evaluation plan covering minute .pdf; APTC DRAFT Eval Plan 9October.docx; APTC approved evaluation plan.pdf

UNCLASSIFIED

Hi s22(1)(a)(ii)

Robert Christie has approved the evaluation plan, subject to inclusion of two additional clarification points in the selection criteria – see Criterion 2 – c. He also notes that the proposed dates for release of the RFT and industry briefing will need to be updated in the document to reflect new deadlines, ie currently the RFT release date advises 3 October and industry briefing on 11 October. I expect we will be able to update once we have all documentation ready to go.

I have attached the approved minute/evaluation plan, and the updated word version of the plan which includes the changes to criterion 2.

Let me know if you need more.

Cheers
s22(1)(a)(ii)

Assistant Director
Department of Foreign Affairs and Trade

Pacific Health and Education
Pacific Analytical and Effectiveness Branch
Pacific Division - Canberra

E | s22(1)(a)(ii)
T | s22(1)(a)(ii)
W | www.dfat.gov.au



Australian Government

Department of Foreign Affairs and Trade

Subject:	Delegate approval for the APTC3 procurement evaluation plan
For	Robert Christie AS AEB PAD
Attachments	1. APTC3 procurement evaluation plan

PURPOSE

1. This minute seeks your approval of the evaluation plan to support the APTC3 procurement process.

BACKGROUND

2. The third stage of the APTC is an investment of up to \$128,750,000 plus GST over four years and three months, commencing in April 2018. Selection of a new APTC3 managing contractor will take place through an open tender process.
3. DFAT Contracting Services Branch (CVB) is managing the procurement process. HAE/AEB is working with the CVB to develop the supporting documentation for the tender process, including the evaluation plan. The APTC3 evaluation plan will guide the procurement and assessment process for the new managing contractor.
4. The plan also outlines key components of the procurement process, including the approach to market, governance and evaluation, evaluation criteria, risk and contract negotiation processes. The evaluation plan was developed by the contracts services branch and includes HAE input.
5. The evaluation plan identifies the evaluation team who will review the tender proposals and make recommendations to DFAT on the preferred bidder. Currently there are two identified panel members, ^{s47F(1)} and ^{s22(1)(a)(ii)}. We plan to identify up to two further panel members that will provide appropriate skills sets to the process. Once identified we will seek your approval for these additional members.
6. The evaluation plan has been cleared through Contracting Services Branch.

RECOMMENDATION

7. Your approval is sought for the APTC3 evaluation plan to support the procurement process.

^{s22(1)(a)(ii)}

Assistant Director HAE/ AEB/ PAD

Approved / Not approved / Discuss

^{s22(1)(a)(ii)}

Delegate's signature

Robert Christie

AS AEB PAD

Date 6/10/17

Department of Foreign Affairs and Trade

EVALUATION PLAN

Australian Pacific Training Coalition

RFT No: DFAT-162

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1. INTRODUCTION

Purpose

This Evaluation Plan (EP) defines the methodology and process to be followed by the Evaluation Committee (EC) for the Request for Tender (RFT) for The Australian Pacific Training Coalition.

This EP is intended for the approval of the delegate and the use and benefit of the EC members. This EP is not to be released to third parties without the prior written consent of the Tender Manager (Contracting Services Branch (CVB) representative).

Background

The Australia Pacific Technical College (APTC) is the Australian Government's major investment in Technical and Vocational Education Training (TVET) in the Pacific region. APTC's goal is 'to support a more prosperous Pacific driven by a skilled, competitive and productive workforce'.

The procurement will be conducted through a Request for Tender via an open approach to market. Approval of the Approach the Market is currently being sought by Deputy Secretary, Ewen McDonald.

Timetable

In accordance with the indicative timetable specified in the request document, the procurement process will be conducted as follows:

Key Milestone & Deliverables	Indicative Dates
RFT Release Date	3 October 2017
Industry Briefing	11 October 2017
Last Questions	23 November 2017
Last Addendum	30 November 2017
RFT Close Date	7 December 2017
Conformity Check	8 December 2017
Shortlisting	Mid-December 2017
Interviews	16-18 January 2017
Outcome Minute Signed	31 January 2018
Notification to Tenderers and Commencement of negotiations	31 January 2018
Contract start date (indicative)	1 April 2018

Any variation to the closing date for submissions will be communicated to potential tenderers by publishing an addendum on AusTender. A request for an extension or consideration of an extension to the closing date will be determined by DFAT at its sole discretion.

2. EVALUATION COMMITTEE AND GOVERNANCE

Nominated Evaluation Committee (EC) members

The role of the EC is to evaluate the submissions received according to the evaluation criteria, and collectively agree on the evaluation outcome of the submissions.

The EC members being nominated are listed below in **Table 1**. Following your approval of this plan, the EC members will be asked to complete several declarations (their roles and

responsibilities; conflict of interest and confidentiality) before they are admitted to the EC and materials are distributed.

Table 1 – Nominated Evaluation Committee Members

	Name	Position / Section	Reason	Voting Member?
Tender Secretariat				
s22(1)(a)(ii)			Tender Manager	No
			Secretary	No
Evaluation Team				
s47F(1)			Member	Yes
			Member	Yes
			Member	Yes
			Member	Yes
s22(1)(a)(ii)			Member	Yes

Summary of EC members

The nominated EC members will bring the necessary mix of skills, expertise and background for an appropriate assessment of the submissions.

Approval of EC costs for staff travel and contracting consultants will be sought separately.

EC roles and responsibilities

The nominated EC members **must**:

- (a) adhere to their agreed Terms of Reference;
- (b) complete Conflict of Interest and Confidentiality Declarations prior to the first EC meeting;
- (c) read the EC Members' Obligations and Probity document and be familiar with DFAT Procurement Policy. By signing the Confidentiality Declaration EC members are agreeing to participate in this evaluation according to these conditions;
- (d) work under the direction of the Tender Manager for the purposes of conducting this evaluation process;
- (e) declare any conflicts of interest of which they become aware throughout the evaluation process;
- (f) maintain confidentiality of the evaluation process and the content and substance of the submissions received, and defer to all probity requests made by the Tender Manager;
- (g) conduct the evaluation process in accordance with the request document and this EP;

- (h) confirm their availability and commitment to undertake the tasks required of the EC in accordance with the timelines in the request document and this EP; and
- (i) participate fully in the evaluation and remain engaged, as required by the Tender Manager.

Governance for the evaluation

Legal Advice

Legal advice will be sought on an as required basis throughout the procurement process. In the first instance the Tender Manager will consult with the relevant Director in CVB and, where necessary, will then seek advice from the Procurement and Commercial Law Section (PCL).

Probity

Providing probity advice relating to the governance of the procurement includes:

- identifying and providing advice on probity matters throughout the procurement process;
- providing guidance/ instruction to the EC and/or Delegate on any probity matters that may arise;
- overseeing the procurement process; and
- managing complaints escalated by the EC, if any, in accordance with the [DFAT Guideline: Complaints Handling in Procurement](#) document.

An external probity adviser will be engaged by CVB to provide probity and procurement governance advice during the procurement process.

3. APPROACH TO MARKET

Procurement method

The procurement has been published in the DFAT Annual Procurement Plan with the following title Australian Pacific Technical Coalition (DFAT-162). The procurement method will be open tender, as stated in the Approach to Market minute.

Advertising the approach to market

In accordance with the Commonwealth Procurement Rules, this approach to market will be advertised on AusTender at www.tenders.gov.au.

Lodgement of submissions

This invitation for submissions closes at **2pm (Canberra time) on 16 November 2017**.

Industry briefing

There will be an industry briefing conducted for this procurement in Canberra at **9:30am (Canberra time) on 11 October 2017** (tentatively). The Industry Briefing aims to give potential tenderers greater opportunity to gain a thorough understanding of the request requirements prior to submitting tenders.

4. RISK

A risk assessment was conducted for the procurement process. Risk to DFAT has been mitigated to the extent possible through the RFT process and provisions in the draft contract, by shifting the risk to the party or parties best placed to mitigate and/or manage a particular risk.

The Risk Assessment is at **Attachment 1**.

5. COMMUNICATIONS, CONFLICTS OF INTEREST AND COMPLAINTS HANDLING

Communications during the approach to market period

Communications during the approach to market period will be handled in accordance with the processes outlined in the request document.

All questions relating to the request document and procurement process must be sent to the email address created specifically for this procurement, APTC3RFT@dfat.gov.au, as indicated in the request document. Responses to questions received will be distributed via an addendum on the AusTender website. Enquiries received through other means will be re-directed to the relevant email address.

Communications after the tender closing time

All communications with potential tenderers during the approach to market period, following the closing time and date, throughout the evaluation phase, and up to the point of selection must be managed through the Tender Manager. There must be no communication by EC members with any tenderers to discuss clarifications or negotiations, or potential preferred or non-preferred tenderers, or any other issue related to the tender.

Identifying and handling conflicts of interest

All staff, external consultants, contractors, technical, financial or other advisors involved in the procurement process must sign a Conflict of Interest Declaration and a Confidentiality Declaration prior to commencing their involvement in the EC. Should an actual or perceived conflict of interest arise, it is the responsibility of the individual to declare the conflict to the Tender Manager.

The Tender Manager and the relevant Delegate will determine how the conflict will be managed and if the individual should be removed from their involvement in the procurement process.

Any identified conflicts of interest and the action undertaken following their declaration must be reported to the Delegate in the Evaluation Outcome Minute.

Complaint handling

Complaints arising from the procurement process will be handled in accordance with the [DFAT Guideline: Complaints Handling in Procurement](#) document.

6. EVALUATION CRITERIA AND WEIGHTINGS

Submissions will be assessed against the following, as set out in the request document:

- a) compliance with Minimum Content and Format requirements (mandatory);
- b) compliance with the Conditions for Participation requirements (if requested) (mandatory);
and
- c) the Evaluation Criteria (**Table 2**);

- d) the pricing component of submissions will be kept separate to the technical assessment. A pricing evaluation will be conducted on shortlisted submissions only and will form part of the value for money assessment.

Table 2 – Evaluation criteria

EVALUATION CRITERIA	WEIGHTING
Mandatory compliance	
1. Minimum Conditions for Participation and Minimum Format and Content	Pass / Fail
Conformity check	
2. Tenderer's Details 3. Conflict of Interest 4. Confidential Information 5. Financial Viability and Insurances 6. Compliance with the Draft Contract 7. Work Health and Safety 8. Tenderer's Declaration 9. Level of Economic Benefit to the Australian Economy	All unweighted
Tenderer Response Schedule 1: Technical Proposal – up to 20 pages	
Criterion 1: Tenderer Personnel – the extent that the Tenderer's personnel have suitable qualifications, experience, and capability to deliver the Services.	30%
<p>In the Technical proposal, tenderers must describe how they would manage the change within their structures to align with APTC3's evolution over the course of the contract. Tenders will also provide a narrative that articulates how key Personnel will function collectively to bring about APTC3's new change agenda, especially in respect to the strengthening of local institutions.</p> <p>Attached to the Technical Proposal will be:</p> <p>a) In Annex 1 to Tenderer Response Schedule 1, Tenderers must nominate, and outline key attributes of, the following Personnel:</p> <ol style="list-style-type: none"> 1. a politically astute Team Leader/Director responsible for leading and managing strategy, planning, inputs and ultimately accountable for delivering the end of program outcomes; 2. two (2) other senior personnel with appropriate skills, in particular: <ul style="list-style-type: none"> ▪ quality TVET delivery ▪ embedding APTC in Pacific systems (to help achieve quality improvements in Pacific institutions and systems); and 3. a Contractor Representative. <p>At the time of tender, DFAT does not expect that any of the Personnel will require an Australian Government Security Clearance (see Clause 30.2 of the draft contract standard conditions).</p> <p>b) For each of the above Personnel, Tenderers must provide:</p> <ul style="list-style-type: none"> ▪ an outline of key roles and responsibilities (position description or terms of reference); 	

<ul style="list-style-type: none"> ▪ a curriculum vitae which must be signed and dated; and ▪ two (2) written references (signed, dated and including contact details for the chosen referee). <p>c) In Annex 2 to Tenderer Response Schedule 1, Tenderers must provide:</p> <ul style="list-style-type: none"> ▪ a <i>proposed Organisation Chart</i> that shows all proposed personnel positions, including long and short term personnel (ARF and non-ARF), international and local personnel at start-up. Tenderers should ensure the proposed number of positions collectively and continuously provide the requisite skills and experience to deliver the Services. <p>In Annex 3 to Tender Response Schedule 1, Tenderers must provide a table with the positions and proposed inputs (days or months) of all personnel required to deliver the Services, as included in Annex 1 above and including any unallocated positions (such as a pool of short-term positions that are yet to be determined), shown per year of the program. This Annex should not include personnel costs.</p>	
<p>Criterion 2: Thinking and working politically – the suitability of the Tenderer's approach to promoting and implementing the long-term vision of the Services, operating in politically smart ways.</p>	30%
<p><i>Tenderers must describe:</i></p> <p>a) how they will promote the continuation of Australia's flagship profile in the VET sector, recognising the political, geographic, economic and cultural complexities of VET in the region;</p> <p>b) how they will manage the transition of APTC from being a separate and enclave Australian technical college to becoming a vehicle for forging coalitions with partner institutions, industry/enterprises and Pacific Governments to achieve sustainable TVET reform; including</p> <ul style="list-style-type: none"> ▪ critical initial steps in engaging stakeholders in support of proposed change; ▪ how they will build commitment from Pacific governments and industry to engage, and co-invest, in TVET reform <p>c) how they will engage with Australian and other key stakeholders, including the Pacific Labour Facility, to ensure planning strengthens graduate employment outcomes; including</p> <ul style="list-style-type: none"> ▪ How they will identify which registered training organisations (RTOs) to work with and over what periods; ▪ How they will work with DFAT bilateral country programs and other development partners, including how they will manage potential additional funds from DFAT bilateral programs, Pacific Island Governments and other donors 	
<p>Criterion 3: Technical Approach – the suitability of the Tenderer's approach to the delivery of the Services.</p>	20%
<p><i>Tenderers must describe, in a maximum of three pages:</i></p> <p>a) how they will build key relationships critical to delivering the Services, including relationships with partner institutions and employers;</p>	

<p>b) outline the mechanisms they will adopt to ensure that APTC3 training contributes to improved employment outcomes for graduates, including through the Pacific Labour Scheme; and</p> <p>c) how they will incentivise social inclusion, women's empowerment and equality.</p>	
<p>Criterion 4: Operational Approach – the suitability of the Tenderer's approach to support the delivery of the Services.</p>	<p>20%</p>
<p><i>Tenderers must describe, in a maximum of five pages:</i></p> <p>a) in the context of the evolving APTC, how they will ensure continuity in the delivery of relevant, cost effective and high quality VET training and qualifications in the region;</p> <p>b) how they will attract, recruit, deploy, retain, and manage personnel, in particular local personnel;</p> <p>c) how they will identify and manage risk; and</p> <p>d) what systems and reporting structures they will use to collect, collate, and analyse information (for example: labour market demand, TVET system data, APTC3 performance and outcomes)</p> <ul style="list-style-type: none"> ▪ including how they will integrate with national systems, and provide customised information to meet the differing needs of key stakeholders. 	
<p>Tenderer Response Schedule 2: Commercial and Proposal – up to four (4) pages excluding Price Tables</p>	
<p>Criterion 2: Pricing – the extent to which the tenderer's Commercial Proposal is cost effective, taking into consideration the extent to which the price is competitive and provides for the full delivery of the Services.</p>	
<p><i>Tenderers must describe:</i></p> <ul style="list-style-type: none"> – an approach to performance that clearly outlines how Tenderers propose a value for money basis of payment, incorporating payments linked to performance and program achievements. Tenderers must ensure that this proposal and Price Tables provide for the full delivery of services. Anticipated sub-contracting, sub-granting arrangements or future increased/decreased staffing requirements must be detailed in this Commercial Proposal; and – what cost savings or other benefits they can offer the Program in terms of the provision of goods/services, for example in terms of travel, travel insurance, medical insurance, and due diligence checks. 	<p>Unweighted (analysis separate to technical assessment)</p>
<p>Tenderer Response Schedule 3: Risk and Tenderer Statements A to I</p>	
<p>Criterion 3: Risk - the level of risk presented by the Tenderer.</p>	
<p>DFAT will undertake an assessment of the level of risk presented by each Tenderer.</p> <p>As part of this risk assessment, DFAT will undertake an assessment of each Tenderer's compliance with the terms and conditions of the Draft Contract (as stated at Tenderer Response Schedule 3 Statement J: Non Compliance with</p>	<p>Unweighted (analysis separate to technical assessment)</p>

<p>Draft Contract), compliance generally with this RFT (including required Statements in Tender Response Schedule 3); and any other risks identified in the evaluation process.</p>	
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<p>As part of this risk assessment, DFAT will undertake an assessment of each Tenderer's financial viability documents to confirm the capacity of the tenderer to meet DFAT's requirements.</p>	
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<p>In its tender response, Tenderers' must provide the name, telephone number and email addresses of the tendering entity's nominated contact point for the financial assessment. If required, following tender submission a DFAT appointed financial assessor will contact the tendering entity's nominated contact point for the following information, at a minimum;</p>	
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| <ol style="list-style-type: none"> 1. complete annual financial statements for the last three (3) financial years, with all supporting notes; 2. descriptions of any recent changes of substance in the Tenderer's financial position that are not reflected in the most recent financial information; 3. details of any other tendering opportunities currently being pursued by the tendering entity or related entities within the group; and 4. details of any significant events, matters or circumstances that may significantly affect the Tenderer's capacity to perform the Services. | |
|--|--|

7. RECEIPT

Receipt/ lodgement of submissions

Submissions will be received through the AusTender electronic tendering system. DFAT will manage this in accordance with its established business process.

Late submissions

Submissions successfully uploaded to AusTender prior to the closing time will receive a 'successful' notification from AusTender. Submissions uploaded late or unsuccessfully will not receive a notification. The submission time is the time of successful upload officially recorded on AusTender. As per the CPRs, DFAT does not have discretion to accept submissions via email, or to accept late tenders.

Storage of submissions

The Tender Secretariat will store all submissions in DFAT's online electronic records management filing system (TRIM). TRIM files will be protected by restricting access to EC members and CVB only.

8. EVALUATION OF SUBMISSIONS

Evaluation objectives

The objectives of this evaluation are to:

- (a) evaluate submissions received against predetermined conformance and technical evaluation criteria;
- (b) establish an agreed ranking of the submissions received;
- (c) identify a shortlist of tenderers capable of providing the scope of requirements as outlined

in the request documentation;

- (d) provide a formal account of the conduct of EC meetings;
- (e) provide an audit trail demonstrating that probity requirements and the applicable requirements of the CPRs and the request documentation are met; and
- (f) recommend the preferred tenderer/s to the financial Delegate.

Evaluation process

In accordance with the request document, the EC will adopt a staged approach in evaluating submissions as indicated in **Table 3** below.

Throughout the various stages of the evaluation process, and in accordance with the request document, the EC may seek clarification from a tenderer to clarify aspects of their submission, including correcting errors of form.

Table 3: Receipt of Submissions

Receipt of Submissions	
Stage 1: Registration of submissions	<ul style="list-style-type: none"> The Tender Secretariat will register submissions received via AusTender as at the closing time on the closing date. These submissions will progress to Stage 2.
Conformity	
Stage 2: Compliance with Minimum Content, Format Requirements, Conditions for Participation, and Conformity with Draft Contract	<ul style="list-style-type: none"> Registered submissions will be reviewed by the Tender Secretariat to determine conformance with the Minimum Content and Format requirements and Conditions for Participation specified in the Request documentation, which are mandatory requirements. Conformance with the unweighted requirements (i.e. all except for the evaluation criteria) will be assessed to determine the potential risks to DFAT posed by the submission. Details of all non-conforming submissions will be documented. In instances where the errors relate to unintentional errors of form, the relevant tenderer may be contacted to submit a correct form within a specific timeframe. Where the state of non-conformance is more extensive than unintentional errors of form, these submissions will not proceed to Stage 3. Relevant tenderers will be notified in writing that their submission was not compliant and will not proceed further in the evaluation process. Instances of non-conformance with draft contract terms and conditions may be forwarded to PCL for assessment of the potential risks posed to DFAT. CVB will prepare conforming submissions for review by the EC, including separating the offered pricing tables/ schedules, from the technical section prior to distribution.
Technical Requirements	
Stage 3: Technical Evaluation Criteria	<ul style="list-style-type: none"> CVB will provide EC members with the technical section of the submissions. The EC will evaluate each submission in accordance with the evaluation criteria and provide a score and associated level of risk. In the evaluation scoring sheets, EC members will provide comments to justify and substantiate the scores given and to identify the strengths, weaknesses and risks of each submission against each of the criteria (these comments may be used by CVB in tenderer debriefs at the conclusion of the tender process). Submissions may be subject to shortlisting and those meeting the minimum requirements will progress to the next stage of evaluation. Non-competitive submissions that have no reasonable prospect of exhibiting the best value for money will be excluded. Interviews they will be conducted at this stage. A financial viability assessment will be undertaken of all shortlisted tenderers and a summary report provided to the Tender Manager. Evaluation Committee members to sign Technical Recommendation Minute.

Cost Evaluation	
Stage 4: Pricing	CVB will provide the Commercial and Pricing Proposals of each shortlisted submission to EC members. The EC members will evaluate and compare the Commercial and Pricing Proposals of each shortlisted submission. The EC will then use the commercial/pricing analysis and total cost comparisons in Stage 5. Submissions determined by the EC as offering genuine value for money will proceed to Stage 5.
Value for Money	
Stage 5: Value for Money Assessment	Tenderers will be assessed and ranked for value for money. Value for money is determined through a comprehensive assessment of the technical capability, tendered commercial and pricing components, financial viability, contractual compliance, and risk. Evaluation Members to sign Value for Money Recommendation Minute.
Stage 6: EC Recommendation	In the Evaluation Outcome Minute, the EC will recommend to the relevant financial Delegate the preferred tenderer/s, and identify any matters/issues to be discussed in the subsequent contract negotiation phase.

9. EVALUATION OUTCOME APPROVAL

Evaluation outcome minute

An Evaluation Outcome Minute will be drafted by the Tender Manager and will be submitted to the Delegate for approval.

The EC's decisions and recommendations should be made by consensus as far as possible. Any dissenting opinions/comments by EC members must be documented in the Evaluation Outcome Minute.

10. CONTRACT NEGOTIATIONS

Process

Following the Delegate's approval of the EC's recommendations, the contract negotiation phase will commence.

During the contract negotiation phase, the Tender Secretariat will engage in detailed discussions and negotiations as required with the relevant preferred tenderer/s based on advice from the EC during the evaluation and the negotiations matrix.

In some instances, it may be desirable to enter into parallel negotiations with multiple shortlisted tenderers. In such instances, the strategy for managing parallel negotiations will need to be approved by CVB and will be addressed separately to this EP.

Where required, the Tender Secretariat will seek advice from PCL regarding any negotiations to vary the contract clauses from those in the approach to market documentation, and any other issues which they determine merit consideration by PCL.

Without limiting its rights or otherwise, DFAT at its sole discretion can cease negotiations with any preferred tenderer/s at any time, but there must be substantial evidence justifying the decision,

and PCL must be consulted prior to doing so. In particular, if during negotiations any preferred tenderer/s retracts or amends, or attempts to retract or amend, any part of its offer, DFAT may:

- a) disqualify the tenderer; and/or
- b) terminate the RFT process with that tenderer; or
- c) terminate the RFT process altogether, if it is in the public interest to do so.

Should negotiations with any tenderer be terminated, DFAT may at its sole discretion consider commencing contract negotiations with the next ranked tenderer.

All communications between the Tender Manager and contractor representatives during the contract negotiation phase will be recorded in writing in a manner consistent with the scope and scale of the procurement.

11. CONTRACT AND FINANCIAL COMMITMENT APPROVAL

Following the completion of negotiations with the preferred tenderer, and clearance of the draft contract by CVB, a recommendation will be made to the Delegate seeking approval of:

- the outcome of the negotiations;
- the final Contract or Deed; and
- the Section 23/32B Approval to Commit and Enter Into an Arrangement Minute.

12. NOTIFICATION AND DEBRIEFING OF UN/SUCCESSFUL TENDERERS

After entering into a Contract with the successful tenderer, DFAT will notify unsuccessful tenderers using the DFAT *Unsuccessful Letter Template*.

The debriefing will be tailored to the particular procurement and for each tenderer. The main subject of the debriefing will relate to the tenderer's submission against the evaluation criteria. The amount of detail covered will vary according to the nature of the procurement and the level of experience the particular tenderer has with DFAT and government procurement. For example, a tenderer that is not familiar with DFAT's procurement practices may benefit from additional information about DFAT's general procurement arrangements. Debriefing will take place within 30 days of contract signature and in accordance with the [*DFAT Tenderer and Debriefing Instruction*](#).

13. DELEGATE APPROVAL

The Delegate should note that minor details in this EP may change as required; however, subsequent repeat approval will not be sought from the Delegate unless CVB deems these changes material.

I approve the appointment of the above nominated representatives to the EC and I am satisfied that the arrangements detailed in this EP meet DFAT's requirements.

APPROVED / NOT APPROVED / DISCUSS

I approve this Evaluation Plan to be followed for the procurement of the APTC RFT.

s22(1)(a)(ii)

Delegate

Date

9/10/17

ANNEX 1: RISK ASSESSMENT

Risks in the Procurement Process

Risk	Likelihood / Impact	Comment
Inadequate transition arrangement between contractors	Moderate / Major	<ul style="list-style-type: none"> • Handover and transition planning is required from new and current contractor and with timely briefings and preparation. • DFAT will work closely with both contractor, ensuring adequate time, preparation and communications to allow a smooth transition. • The current contract can be extended to provide more time for handover if required (subject to approvals and the Contractor's agreement).
ATO tax ruling may deter individuals aligning themselves with government organisations tendering and reduce competitiveness of government bidders (particularly TAFEs and higher education sectors)	Moderate/Moderate	<ul style="list-style-type: none"> • All bidders (and individuals) are responsible for managing their own tax affairs. • DFAT may mitigate impact during contract negotiations (e.g., via higher rates for advisers) where possible.
Probity issues in the procurement and/or complaints from industry	Unlikely/ Minor	<ul style="list-style-type: none"> • CVB will engage an external independent Probity Adviser to ensure probity principles are adhered to. • Conflict of Interest and confidentiality requirements will be put in place throughout the process, including the EC. • External probity advice, and internal legal advice, will be sought if issues arise throughout the process. • Potential contractors participated in the design of APTC3. DFAT will manage potential perceptions of unfair advantage, by sharing as much information as possible with all tenderers. • Complaints handling procedure specified in the Evaluation Plan to be followed. • Process and decisions will be documented. • Tender documents only shared with staff that require access.

		<ul style="list-style-type: none"> • Documents stored appropriately. • Staff briefed on CVB policy regarding communicating with industry during tender process. • CVB to provide experienced staff to manage the process.
Tenderers' proposed approach for delivery does not meet the requirements of the Program	Unlikely / Moderate	<ul style="list-style-type: none"> • Tenderers' approach/methodology will be assessed by the Evaluation Committee as per the selection criteria (which is developed in consultation with the program area); • The Program Design Document (PDD) will be released with the tender documents to allow Tenderers to gain an understanding of the Program; • An industry briefing will be held within 10 days of tender release to share DFAT expectations and answer questions; and • CVB can improve some deficient elements during contract negotiations.
Selection criteria does not adequately reflect required capabilities of the contractor	Unlikely / Moderate	<ul style="list-style-type: none"> • Program assisted in the development of the selection criteria; and • Selection criteria are closely linked to the key requirements of the PDD.
Changes to the program scope required during the tender process	Unlikely / Moderate	<ul style="list-style-type: none"> • Program area involved in the design; • Program managers' briefed on probity implications of change to tender after tender close; and • Standard clauses saying DFAT has options to make changes to the RFT, if required.
Market does not possess the capability to meet procurement requirements	Unlikely / Severe	<ul style="list-style-type: none"> • Design has been peer reviewed to ensure its practicality and feasibility; • RFT calls for a single contractor or a consortium; and • TAFE QLD and TAFE NSW have indicated interest in bidding.
Tenderers do not understand the procurement requirements and submit poor responses as a result	Unlikely / Moderate	<ul style="list-style-type: none"> • Industry briefing will cover DFAT tender requirements; and • Tenderers can seek clarification through addenda, as indicated in the RFT.

Tenderers do not have sufficient time to respond to procurement requirements	Unlikely / Moderate	<ul style="list-style-type: none"> Tenderers will have had the design available to them prior to the release of the RFT (potentially one week prior), plus the standard 45 days to respond to the RFT.
Evaluation Committee does not possess the expertise to evaluate the tenders	Possible / Major	<ul style="list-style-type: none"> Program area and CVB have selected appropriately skilled Evaluation Committee members.
CVB does not possess the skills to conduct rigorous risk and cost analysis	Unlikely / Major	<ul style="list-style-type: none"> CBV's analysis is evaluated by the Evaluation Committee and summarised for approval by the delegate.



Australian Government
Department of Foreign Affairs and Trade

DFAT - 162

REQUEST FOR TENDER ('RFT')
FOR
Australia Pacific Training Coalition (APTC)

Date Published 20 October 2017

Contact Officer: Please submit any tender specific questions to APTCRFT@dfat.gov.au

The department will not respond to questions submitted in any other manner.

RFT Part 1 Table 1: RFT Dates and Times:

Event	Date
Tender	
Request For Tender issued	20 October 2017
Industry briefing	2 November 2017
Last date for enquiries from Tenderers to DFAT	2pm Canberra time 15 December 2017
Last date for addenda (DFAT responses to tenderer enquiries)	2pm Canberra time 22 December 2017
Closing date for tenders to be submitted (via AusTender)	2pm Canberra time 8 January 2018
Tender Validity Period (at least 180 days)	9 July 2018
Evaluation (<i>indicative</i>)	
Conformity check	9 January 2018
Shortlisting (if required)	15 January 2018
Interviews (if required)	22-24 January 2018
Contract negotiation and signing (<i>indicative</i>)	
Negotiations	February & March 2018
Contract signed	March 2018
Debriefs issued, if requested	April 2018
Contract start date (<i>indicative</i>)	
Start	1 April 2018

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DFAT AID STATEMENT OF PRINCIPLES

DFAT has published a Statement of Principles to underpin a partnership between DFAT and organisations contracted to DFAT to support delivery of the Australian aid program. Tenderers must comply with the Statement of Principles, which is available at <http://dfat.gov.au/about-us/publications/Pages/dfat-aid-statement-of-principles.aspx>

Part 1 – SERVICES SPECIFIC CONDITIONS OF TENDER
APTC RFT

PART 1 – SERVICES SPECIFIC CONDITIONS OF TENDER

The Tender Particulars in the Table below provide the lodgement requirements for this RFT.

1 Tender Particulars

Description	Date/Details
Lodgement:	via AusTender at https://tenders.gov.au
AusTender Help Desk:	Telephone: 1300 651 698 International: +61 2 6215 1558 Email: tenders@finance.gov.au
Tender Validity Period	180 days
Number of Copies of Tender and page limits:	<p>Tenderer Response Schedule 1 – Technical Proposal. One (1) electronic copy in PDF, up to twenty (20) pages plus Annexes 1 - 4;</p> <p>Tenderer Response Schedule 2 – Commercial Proposal. One (1) electronic copy in PDF, up to four (4) pages, <u>excluding</u> Price Tables; and One (1) electronic copy of Price Tables in Excel and One (1) electronic copy of Price Tables in PDF including qualifications/assumptions, no page limit.</p> <p>Tenderer Response Schedule 3 – Risk and Tenderer Statements A to I. One (1) electronic copy in PDF, no page limit.</p>
Documents attached to RFT for Information:	<p>The following documents are attached:</p> <ul style="list-style-type: none"> (a) Attachment 1: Project Design Document; and (b) Attachment 2: Price Tables (in MS Word). <p>Tenderers are also encouraged to visit www.aptc.edu.au for further information on APTC.</p>
Services Specific Mandatory Minimum Form and Content Services:	<p>The minimum Content and Format Requirements are:</p> <p>Submission of the following substantially completed Tender Schedules:</p> <ul style="list-style-type: none"> (a) Tender Schedule 1; (b) Tender Schedule 2; and (c) Tender Schedule 3. <p>Tenders offering to provide only part of the Requirements will not be considered by DFAT.</p> <p>Tenderers (themselves or via an Associate or sub-contractor) not able to provide accredited Australian Qualifications Framework training will not be considered by DFAT.</p>

Part 1 – SERVICES SPECIFIC CONDITIONS OF TENDER APTC RFT

- 1.2 Tenders must be legible and within the page limits and specific formatting requirements in the table above. Cover pages, dividers, tables of contents and acronym pages can be in addition to any page limit, provided there is no technical information included in these.

2 Description of Services

- 2.1 The Australia Pacific Technical College (APTC) is the Australian Government's major investment in Technical and Vocational Education Training (TVET) in the Pacific region. Visit www.aptc.edu.au for further information.

- 2.2 APTC3's goal is:

'A more skilled, inclusive and productive workforce enhances Pacific prosperity'.

APTC3's supporting purpose is:

'The skills and attributes available to employers from TVET systems align with labour market requirements'.

- 2.3 This goal and purpose will in turn be supported by the achievement of three end-of-program outcomes (EOPOs):

- (a) Graduates have improved employment outcomes
- (b) Co-investment in skills training increases
- (c) Selected TVET partners demonstrate quality TVET provision.

- 2.4 APTC operates in Fiji, Kiribati, Nauru, PNG, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu and this will be the continued focus of APTC3. APTC3 services will include other countries, for example as part of assisting Pacific frameworks in TVET, and this requirement may expand over the life of APTC3.

- 2.5 The Contractor's core services in partnership with local institutions and partners and in a way that maximises co-contribution and fee-for-service use, are planning and delivery of training, creating and managing partnerships for training and/or TVET reform, supporting TVET systems strengthening and reform, including managing a flexible fund for reform activities, and supporting and managing all students undertaking APTC3 training courses.

3 Term of Contract, Options Periods, Indicative Budget, Type of Contract

- 3.1 DFAT proposes that the Contract arising from this RFT will have an initial term of **four (4) years and three (3) months**, with an option to extend the Contract for a further term of up to **four (4) years**, exercisable at the discretion of DFAT.

	Timeframe	Indicative Budget (AUD) (GST exclusive)
Initial Term	4 years 3 months	\$128,750,000
Options Periods	4 years	\$128,000,000
Total	8 years 3 months	\$256,750,000

Part 1 – SERVICES SPECIFIC CONDITIONS OF TENDER APTC RFT

- 3.2 It is DFAT's intention to contract based on the draft Contract contained in **Part 3**. Tenderers must fully inform themselves of the Contract when preparing their Tenders. By submitting a Tender, the Tenderer agrees to the Services Specific and Standard Conditions of Tender, including the draft Contract. Any non-compliance with the draft Contract must be documented in Tenderers' responses to **Tenderer Response Schedule 3, Statement H: Non Compliance with Draft Contract**.

4 Tender Composition

- 4.1 This RFT is comprised of three (3) Parts as follows:

Part 1 – Activity Specific Tender Conditions;

Part 2 – Standard Conditions of Tender; and

Part 3 – Draft Contract.

4.2 Part Tenders

- 4.3 Tenders offering to provide only part of the Requirements will not be considered by DFAT.

Compliance with Commonwealth Policies

- 4.4 Tenderers must comply with the following Australian Aid Program Policies available at www.dfat.gov.au:

- (a) *'Promoting Opportunities for All: Gender Equality and Women's Empowerment'* (November 2011);
- (b) *'Development for All 2015-2020: Strengthening disability-inclusive development in Australia's aid program'*;
- (c) *'Environmental Management Guide for Australia's Aid Program'* and *'Environment Protection Policy'* (2014);
- (d) *'DFAT Child Protection Policy'*;
- (e) *'Family Planning and the Aid Program: Guiding Principles'* (2009); and
- (f) other policies as published or as notified to Tenderers by DFAT.

Indigenous Procurement Policy

- 4.5 It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see <https://www.dpmc.gov.au> for further information).
- 4.6 Tenderers should note that the Indigenous Procurement Policy does not apply to this procurement. However, in completing **Statement I**, tenderers are encouraged to provide information on how their organisation or tender proposal stimulates Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy.
- 4.7 Purchases from an Indigenous enterprise may be in the form of engagement of an Indigenous enterprise as a subcontractor, and / or use of Indigenous suppliers in the Tenderer's supply chain.

5 Tender Evaluation

- 5.1 DFAT will evaluate Tenders in order to identify the Tenderer, which it considers can provide the Requirement in a manner that achieves best **value for money**.

Part 1 – SERVICES SPECIFIC CONDITIONS OF TENDER
APTC RFT

- 5.2 Achieving value for money is a critical consideration for the achievement of DFAT's strategic objectives. It is a requirement under the *Public Governance, Performance and Accountability Act* (2013) and the Commonwealth Procurement Rules. DFAT has developed eight (8) Value for Money Principles to guide decision making and maximise the impact of its investments: <http://dfat.gov.au/aid/who-we-work-with/value-for-money-principles/Pages/value-for-money-principles.aspx>
- 5.3 DFAT will undertake an overall evaluation of **Value for Money** taking into consideration:
- (a) A technical evaluation;
 - (b) A commercial evaluation;
 - (c) A risk evaluation; and
 - (d) Any other matters that DFAT considers relevant, including but not limited to cost/benefit analyses, whole of life costing, program resourcing and other factors relevant to the suitability, capacity and qualifications of a potential Contractor to deliver the Services.
- 5.4 DFAT will convene an Evaluation Committee (EC) to undertake the value for money evaluation. Members of the EC could be DFAT representatives, independent specialists and representatives of the Partner Government, at DFAT's sole discretion.
- 5.5 In conducting its evaluation, the EC may take into consideration past performance information including, but not limited to, referee reports, performance information, and any other relevant information.
- 5.6 The EC will conduct an evaluation of each Tenderer's technical proposal including technical risk (**Tenderer Response Schedule 1 – Technical Proposal**) against the Evaluation Criteria identified in **Clause 6** in this **Part 1**.
- 5.7 The EC will conduct an evaluation of each Tenderer's commercial proposal including commercial risk (**Tenderer Response Schedule 2 – Commercial Proposal**) against the Evaluation Criteria identified in **Clause 6** in this **Part 1**.
- 5.8 The EC will conduct an evaluation of each Tenderer's overall level of risk including Tenderer's financial viability (**Tenderer Response Schedule 3 – Risk, and Tenderer Statements A to I**), conformity with the Draft Contract (**Part 3**), and identified technical and commercial risks against the Evaluation Criteria identified in **Clause 6** in this **Part 1**.
- 5.9 The EC will consider the above information and any other information it assesses as relevant including the Tenders, and make an overall value for money evaluation and recommendation to the appropriate DFAT Delegate. In determining this recommendation, shortlisting and/or Tenderer interviews may be conducted.
- 5.10 Interviews will be held as part of the Evaluation Process. Interviews will be held in **Canberra** on **22-24 January 2018** (indicative only). Interviewees will include the Team Leader, Contractor Representative and the two other nominated personnel in Annex 1 to Criteria 1 of this RFT. Tenderers may also bring up to one (1) personnel to the interview as an observer. If these interviewees are unable to attend the interview, DFAT may in its absolute discretion arrange a videoconference or teleconference interview.
- 5.11 At any stage, DFAT may seek clarification of any technical, commercial, or risk

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matters and may seek a Best and Final Offer in respect of the offer provided by each Tenderer.

- 5.12 Tenderers should be aware that the DFAT Delegate is not bound to accept the EC recommendation and may direct that further action be taken in accordance with this RFT and the Commonwealth Procurement Rules.
- 5.13 DFAT is not bound to accept the lowest priced or any Tender.

Conformity and Compliance Screening

DFAT will undertake conformity and compliance screening of Tenders received by DFAT to ensure that they:

- (a) comply with the Mandatory Minimum Form and Content Requirements in **Clause 1** in this **Part 1** of the RFT; and
- (b) comply with the Mandatory Conditions for Participation in **Clause 1** in this **Part 2** of the RFT.

Tenders that comply with this **Clause 5.12** will proceed to a Value for Money Evaluation.

Industry Briefing

- 5.14 An industry briefing will be held at DFAT, 255 London Circuit, Canberra City at 10:00am (Canberra time), **2 November 2017**.
- 5.15 Attendance at the industry briefing is optional and is not a Condition for Participation in the RFT process. Tenderers should indicate if they intend to attend the industry briefing by providing the name, company and position of each person attending to APTCRFT@dfat.gov.au **two (2)** working days prior to the industry briefing.
- 5.16 Copies of any presentations and responses to questions provided at the briefing will be provided to all Tenderers through AusTender following the briefing. Individual briefings will not be provided. Any information provided at the industry briefing will be provided subject to the terms and conditions of this RFT. Tenderers must not rely on a statement made at the industry briefing as amending or adding to this RFT unless confirmed in writing via an Addendum.

6 Evaluation Criteria

- 6.1 The evaluation criteria and technical weightings are set out below. Tenderers are encouraged to describe past experiences to justify claims and proposals, and to clearly specify how they will use past experiences to tailor their approach to the Services.

Tenderer Response Schedule 1: Technical Proposal – up to 20 pages	
Criterion 1: Tenderer Personnel – <i>the extent that the Tenderer's personnel have suitable qualifications, experience, and capability to deliver the Services.</i>	30%
Tenders will provide a narrative that articulates how key Personnel will function collectively to bring about APTC3's agenda, especially in respect to the strengthening of local institutions. Attached to the Technical Proposal will be:	

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<p>a) In Annex 1 to Tenderer Response Schedule 1, Tenderers must nominate, and outline key attributes of, the following four Personnel:</p> <ol style="list-style-type: none"> 1. a politically astute Team Leader/Director responsible for leading and managing strategy, planning, inputs and ultimately accountable for delivering the end of program outcomes; 2. two (2) other senior personnel with appropriate skills, in particular: <ul style="list-style-type: none"> ▪ quality TVET delivery ▪ skills to achieve quality improvements in Pacific institutions and systems; and 3. a Contractor Representative. <p>At the time of tender, DFAT does not expect any of the Personnel will require an Australian Government Security Clearance (see Clause 30.2 of the draft contract standard conditions).</p> <p>b) For each of the above Personnel, Tenderers must provide:</p> <ul style="list-style-type: none"> ▪ an outline of key roles and responsibilities (position description or terms of reference and no more than two pages each); ▪ a curriculum vitae which must be signed and dated (no more than two pages); and ▪ two (2) written references (signed, dated and including contact details for the chosen referee and no more than two pages each). <p>c) In Annex 2 to Tenderer Response Schedule 1, Tenderers must provide:</p> <ul style="list-style-type: none"> ▪ a proposed Organisation Chart that shows all proposed personnel positions, including long and short term personnel (ARF and non-ARF), international and local personnel. Tenderers should ensure the proposed number of positions collectively and continuously provide the requisite skills and experience to deliver the Services. Annex 2 must make clear the location of the positions. Annex 2 may be on A3 pages, not exceeding two pages in total. <p>d) In Annex 3 to Tender Response Schedule 1, Tenderers must provide:</p> <ul style="list-style-type: none"> ▪ a table with the positions and proposed inputs (days or months) of all personnel required to deliver the Services, as included in Annex 2 above and including any unallocated positions (such as a pool of short-term positions that are yet to be determined), shown per year of the program. This Annex should not include personnel costs. 	
<p>Criterion 2: Thinking and working politically – <i>the suitability of the Tenderer's approach to promoting and implementing the long-term vision of the Services, operating in politically smart ways.</i></p>	30%
<p><i>Tenderers must describe:</i></p> <ol style="list-style-type: none"> a) how they will promote the continuation of Australia's flagship profile in the VET sector, recognising the political, geographic, economic and cultural complexities of VET in the region; b) how they will manage the transition of APTC from being a separate and enclave Australian technical college to becoming a vehicle for forging 	

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<p>coalitions with partner institutions, industry/enterprises and Pacific Governments to achieve sustainable TVET reform; including</p> <ul style="list-style-type: none"> ▪ critical initial steps in engaging stakeholders in support of proposed change; ▪ how they will build commitment from Pacific governments and industry to engage and co-invest in TVET reform <p>c) how they will engage with Australian stakeholders, including the forthcoming Pacific Labour Facility, to ensure planning strengthens graduate employment outcomes, including:</p> <ul style="list-style-type: none"> ▪ how they will identify which registered training organisations (RTOs) to work with and over what periods; ▪ how they will work with DFAT bilateral country programs and other development partners, including how they will manage potential additional funds from DFAT bilateral programs, Pacific Island governments and other donors. 	
<p>Criterion 3: Technical Approach – <i>the suitability of the Tenderer's approach to the delivery of the Services.</i></p>	<p align="center">20%</p>
<p><i>Tenderers must describe:</i></p> <p>a) how they will build key relationships critical to delivering the Services, including relationships with partner institutions and employers;</p> <p>b) outline the mechanisms they will adopt to ensure that APTC3 training contributes to improved employment outcomes for graduates, including through the Pacific Labour Scheme; and</p> <p>c) how they will incentivise social inclusion, women's empowerment and gender equality.</p>	
<p>Criterion 4: Operational Approach – <i>the suitability of the Tenderer's approach to support the delivery of the Services.</i></p>	<p align="center">20%</p>
<p><i>Tenderers must describe:</i></p> <p>a) in the context of the evolving APTC, how they will ensure continuity in the delivery of relevant, cost effective and high quality VET training and qualifications in the region;</p> <p>b) how they will attract, recruit, deploy, retain, and manage personnel, in particular local personnel;</p> <p>c) how they will identify and manage risk; and</p> <p>d) what systems and reporting structures they will use to collect, collate, and analyse information (for example: labour market demand, TVET system data, APTC3 performance and outcomes), including how they will integrate with national M&E systems, and provide customised information to meet the differing needs of key stakeholders.</p>	

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TENDERER RESPONSE SCHEDULE 2 – COMMERCIAL PROPOSAL

Criterion 5: Pricing – the extent to which the tenderer's Commercial Proposal is cost effective, taking into consideration the extent to which the price is competitive and provides for the full delivery of the Services.

Tenderers must describe:

- an approach to performance that clearly outlines how Tenderers propose a value for money basis of payment, incorporating payments linked to performance and program achievements. Tenderers must ensure that this proposal and Price Tables provide for the full delivery of services. Anticipated sub-contracting, sub-granting arrangements or future increased/decreased staffing requirements must be detailed in this Commercial Proposal; and
- what cost savings or other benefits they can offer the Program in terms of the provision of goods/services, for example in terms of travel, travel insurance, medical insurance, and due diligence checks.

Tenderers must also complete the Price Tables consistent with **Clause 10** (Tender Prices) in **Part 2** of this RFT by completing **Tables 1 - 3 of Schedule 2** below. Tenderers must specifically state any qualifications or cost assumptions that they will later rely on in contract negotiations or contract implementation.

Any costs for Tender Associates (**see Clause 1.1 (b) (i) of Part 2 to this RFT**) must be included in Management Fees in **Table 1 of Schedule 2**, or in Tender Personnel Costs **Table 2 of Schedule 2**, if on a fee for service basis as a reimbursable cost to DFAT. Associates cannot be paid from Program Costs or Operational Costs if represented as having a role in the Tender.

Contractor Representatives cannot be listed as Personnel and must be 100% covered by Management Fees (including their travel and any technical inputs).

Tenderers can list their own technical staff as Personnel; however, this must be in accordance with the Adviser Remuneration Framework and the Commonwealth Procurement Rules. Tenderers' own staff cannot be paid from Program Costs or Operational Costs, only from Management Fees, or Personnel Costs.

TENDERER RESPONSE SCHEDULE 3 – RISK AND TENDERER STATEMENTS A TO I

Criterion 6: Risk - the level of risk presented by the Tenderer.

DFAT will undertake an assessment of the level of risk presented by each Tenderer.

As part of this risk assessment, DFAT will undertake an assessment of each Tenderer's compliance with the terms and conditions of the Draft Contract, as stated at Tenderer Response **Schedule 3 Statement J: (Non Compliance with Draft Contract)**, compliance generally with this RFT (including required **Statements A - I** in Tender Response **Schedule 3**); and any other risks identified in the evaluation process.

As part of this risk assessment, DFAT will undertake an assessment of each Tenderer's financial viability documents to confirm the capacity of the tenderer to meet DFAT's requirements.

In its tender response, Tenderers' must provide the name, telephone number and email addresses of the tendering entity's nominated contact point for the financial assessment.

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If required, following tender submission a DFAT appointed financial assessor will contact the tendering entity's nominated contact point for the following information, at a minimum;

1. complete annual financial statements for the last three (3) financial years, with all supporting notes;
2. descriptions of any recent changes of substance in the Tenderer's financial position that are not reflected in the most recent financial information;
3. details of any other tendering opportunities currently being pursued by the tendering entity or related entities within the group;
4. details of any significant events, matters or circumstances that may significantly affect the Tenderer's capacity to perform the Services; and
5. The name, telephone number and email addresses of the tendering entity's nominated contact point for the financial assessment.

Note to Tenderers. Tenderers must provide DFAT's financial assessor with further details of relevant financial data and other relevant information concerning the Tenderer, if so requested by the financial assessor. Failure by a Tenderer to provide financial information when requested by the financial assessor may result in the Tender not being assessed further. The financial information of Tenderers will be treated confidentially. The report on the financial capacity of each Tenderer will be provided to the EC and/or the Delegate.

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TENDERER RESPONSE SCHEDULE 2: PRICE TABLES**Table 1: Management Fees (GST exclusive)**

Item	Year 1 1 April 18 to 30 June 18 (AUD)	Year 2 1 July 18 to 30 June 19 (AUD)	Year 3 1 July 19 to 30 June 20 (AUD)	Year 4 1 July 20 to 30 June 21 (AUD)	Year 5 1 July 21 to 30 June 22 (AUD)	TOTAL (AUD)
<i>Tenderer to specify major line items – insert rows as applicable</i>						
<i>Tenderer to specify major line items – insert rows as applicable</i>						
<i>Tenderer to specify major line items – insert rows as applicable</i>						
<i>Tenderer to specify major line items – insert rows as applicable</i>						

* Note, during contract negotiations with the preferred Tenderer and pending on the outcome of the tender evaluation including the Financial Viability Assessment, DFAT may require the Tenderer to put in place a Bank Undertaking or Performance Guarantee. Reasonable cost associated with this action, if required, will be added into the Tenderer's proposed Management Fee during contract negotiations.

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Table 2: Tenderer Personnel – to include all personnel and associate (where fee for service) costs (GST exclusive)

Position	Name (if available)	ARF Rate + Job Level & Category or Non-ARF (as applicable)	Adviser Support Costs (if applicable)	Year 1	Year 2	Year 3	Year 4	Year 5	Maximum Amount Payable (AUD)
				1 April 18 to 30 June 18 (AUD)	1 July 18 to 30 June 19 (AUD)	1 July 19 to 30 June 20 (AUD)	1 July 20 to 30 June 21 (AUD)	1 July 21 to 30 June 22 (AUD)	
				Inputs (day/month)	Inputs (day/month)	Inputs (day/month)	Inputs (day/month)	Inputs (day/month)	
Long Term Adviser Cost (ARF)									
<i>Tenderer to specify position(s)</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	
Sub-Total									
Long Term Personnel Costs (non-ARF)									
<i>Tenderer to specify position(s)</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	
Sub-Total									
Short Term Adviser Costs (ARF)									
<i>Tenderer to specify position(s)</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	
Sub-Total									
Short Term Personnel Costs (non-ARF)									
<i>Tenderer to specify position(s)</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	
Sub-Total									
Associates (if fee for service basis)									
<i>Tenderer to specify position(s)</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	<i>Tenderers to specify.</i>	
Sub-Total									
Total Personnel/Associate Costs									

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Notes for Table 2:

Tenderers must cost all proposed Advisers consistent with the Organisational Chart in Tenderer Response Schedule 1.

Tenderers should exclude the cost of all training staff that will be offered continued contracted under APTC3 (see Clause 15 of Schedule 1 of the Draft Contract).

Table 3: Tenderer ARF Adviser Support Costs (GST exclusive)

Items	Maximum Amount Payable (AUD) Adviser 1 (insert position from Table 2)	Maximum Amount Payable (AUD) Adviser 2 (insert position from Table 2)	<i>Insert columns as required</i>
Housing costs			
Mobilisation costs			
Demobilisation costs			
Airfares			
Hotel Accommodation			
Travelling Allowance			
International Communication costs			
Compulsory Arrival and Departure Taxes and Travel to and from Airport (e.g. Taxis)			
Transport Costs (in-country)			
Medical insurance costs			
Security costs			
TOTAL			

Notes: Table 3 must include any adviser supports costs, in accordance with the ARF, for LTA and STA. The above Table 3 must exclude program travel, i.e., work related travel for those located in APTC offices, (noting the all travel for STA is Adviser Support Costs). Program travel costs will be paid from Operational Costs and must be included in Table 4 below.

**Part 1 – SERVICES SPECIFIC CONDITIONS OF TENDER
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Items	Maximum Amount Payable (up to) (AUD)
Program travel costs	
TOTAL	

Note: See notes under Table 3. Tenderers should list assumptions such as how many trips per year are budgeted for in their calculations of program travel costs.

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TENDERER RESPONSE SCHEDULE 3: TENDERER STATEMENTS

STATEMENT A: TENDERER'S DETAILS

DETAIL REQUIRED	TENDERER'S RESPONSE:
Tenderer's Legal Entity Type	<input type="checkbox"/> Individual/sole trader <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other entity type (provide details):
Tenderer Name This must be the name of the legal person (entity) making the Tender. This will also be the name of the contracting party if applicable.	
Australian Company Number (ACN) /Australian Registered Body Number (ARBN) and Australian Business Number (ABN) (as applicable)	
Registered as an Indigenous business as defined by the Indigenous Procurement Policy?	YES/NO (Delete one)
Registered for GST?	YES/NO (Delete one)
Registered Business Address The official business address in respect of the legal entity making the Tender.	
Commercial Business Address The address to be used for notices given under any contract (if different to the Registered Business Address).	
Small to medium enterprise? A small to medium enterprise is an entity employing fewer than 200 full time equivalents, including employees of all other associated businesses.	YES/NO (Delete one) If YES, indicate Current Number of Employees:
Tenderer Contact, Preferred Provide details of the person who is the Tenderer's point of contact for the purposes of this RFT. Tenderers must ensure the preferred or alternate point of contact is available during the tender evaluation period.	Name: Position/Title: Address: Telephone Number 1: Telephone Number 2: Email 1: Email 2:
Tenderer Contact, Alternate Provide details of the person who is the Tenderer's point of contact for the purposes of this RFT. Tenderers must ensure the preferred or alternate point of contact is available during the tender evaluation period.	Name 1: Position/Title: Address: Telephone Number 1: Telephone Number 2: Email 1: Email 2:

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STATEMENT B: IDENTIFYING CONFIDENTIAL INFORMATION

- 6.2 The Tenderer must identify in **Table 1** (Confidential Information) below any information that it will be providing during the RFT process that it considers should be protected as confidential by DFAT and provide valid reasons which satisfy each of the following criterion:
- (a) Criterion 1: that the information to be protected must be identified in specific rather than general terms;
 - (b) Criterion 2: that the information must be reasonably perceived as of being of a confidential nature;
 - (c) Criterion 3: that disclosure would be likely to cause detriment to the contractor or other third party; and
 - (d) Criterion 4: that the information was provided under an understanding that it would remain confidential.
- 6.3 Further information on the above criteria can be found in the publication 'Confidentiality throughout the Procurement Cycle' available at: <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html>
- 6.4 Procurement information should not be classified as confidential unless there is a sound reason informed by legal principle, to maintain the confidentiality of the information.
- 6.5 If no Information is to be treated as confidential, indicate by entering "None at this time" in **Table 1** below.

Table 1: Confidential Information

Tender Information	Reason(s) why this information should be protected as Confidential Information	Proposed Period of Confidentiality
<i>Tenderer to insert additional rows as required.</i>		

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STATEMENT C: DECLARATION BY TENDERER

I, [insert name, address], do solemnly and sincerely declare that:

[insert name and ACN/ARBN/ABN of Tenderer] ('Tenderer'):

- 1 The Tenderer offers to supply the Services:
 - (a) described in this RFT issued by the Commonwealth of Australia represented by Department of Foreign Affairs and Trade ('DFAT'); and
 - (b) for the Tender Price set out in the Tender.
- 2 The Tenderer confirms its capacity to Tender and that there is no restriction under any relevant law to prevent it from Tendering.
- 3 The Tenderer confirms that the Tender does/does not (Delete inapplicable response) comply with all the requirements in **Clause 1** (Mandatory Minimum Form and Content Services) in **Part 1** of the RFT.
- 4 The Tenderer confirms that the Tender does/does not (Delete inapplicable response) comply with all relevant Parts of **Clause 1** (Mandatory Conditions for Participation) in **Part 2** of the RFT.
- 5 The Tenderer confirms that the Tenderer is/is not (Delete inapplicable response) a Relevant Employer under the *Workplace Gender Equality Act 2012*(Cth) ('WGE Act') and a copy of the letter of compliance with the WGE Act is/is not (Delete inapplicable response) **attached** to this Declaration.
- 6 The Tenderer acknowledges that it has received all Addenda to this RFT issued by DFAT and posted on AusTender in accordance with **Clause 5** (Tenderer Enquiries) in **Part 2** of the RFT.
- 7 The Tenderer warrants that it holds all necessary insurances in accordance with the Draft Contract and that if selected as the Tenderer to provide the Services to DFAT, it can supply DFAT with a formal Certificate of Currency from its insurer on demand.
- 8 In accordance with **Clause 22** (Collusive Tendering and improper assistance) in **Part 2** of the RFT the Tenderer warrants that, at the time of lodging this Tender, no actual or potential conflict of interest exists which could affect the performance of its obligations if the Tenderer were to enter into a Deed of Standing Offer, or a contract created under that Deed, with DFAT.

or

The Tenderer discloses the following details of potential conflicts of interest, in relation to providing the Services:

Tenderer's response: [Tenderer to enter details here – Tenderers should note the Definition of Conflict of Interest in **Part 2** of the RFT]

- 9 The Tenderer confirms that it has/has not (Delete inapplicable response) **attached** all required Letters of Association to **Tenderer Response Schedule 1** in accordance with reference to Tenders Associates in **Clause 1.1 (b)** of **Part 2** of the RFT.
- 10 The Tenderer warrants that neither it, nor the members of its governing body, are the subject of any Court proceedings for debt recovery, bankruptcy, insolvency or breach of contract.
- 11 The Tenderer warrants that it is not currently the subject of any formal or informal investigation or temporary suspension by the World Bank or any similar donor of development funding which may lead to it becoming listed on the World Bank List or a Relevant List.

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- 12 The Tenderer confirms that it has read and understood all clauses and paragraphs of the Draft Contract and in so far as the paragraph or clause creates a contractual condition or obligation on the Tenderer, the Tenderer makes its offer to DFAT on that condition or under that obligation and in so far as the paragraph or clause specifies a characteristic or performance to be met by the Tenderer or its Tenderer Personnel when providing the Services, the Tenderer's offer is to provide the Services as specified. If the Tenderer does not comply with the Draft Contract, the specific clauses or paragraphs of the Draft Contract with which the Tenderer is non-compliant are listed in Statement J.
- 14 The Tenderer consents to DFAT undertaking all relevant checks in accordance with this RFT.
- 15 The Tender remains open for acceptance for the Tender validity period.
- 16 Neither the Tenderer nor any of its officers, employees, agents, and subcontractors has attempted to, or will attempt to, improperly influence an officer of DFAT in connection with the preparation or assessment of the Tender or has approached any Minister or Commonwealth officer in connection with the RFT process.
- 17 The Tenderer warrants that the Tender has not been prepared with the assistance of current DFAT employees or Former DFAT Employees or with improperly obtained information.
- 18 If at any time prior to entry into a Contract with the Preferred Tenderer, any information provided in this Declaration changes, the Tenderer agrees to advise DFAT of that change within seven (7) calendar days.
- 19 The Tenderer agrees that DFAT may provide any information collected, or provided to it by the Tenderer during the course of this RFT process to Parliament and its Committees and other Commonwealth agencies or regulatory bodies, including but not limited to: the Department of Employment, the Australian National Audit Office, the Fair Work Ombudsman and Fair Work Australia.
- 20 The Tenderer acknowledges that no express or implied contract has arisen between the Tenderer and DFAT in relation to the RFT or the Tender.
- 21 The Tenderer understands and agrees to all Tender conditions including without limitation the obligations, acknowledgements and DFAT's rights included in the RFT document.
- 22 The Tenderer warrants that the information contained in their Tender submission is true and correct and the signatory is duly authorised to sign on behalf of the Tenderer.

I make this Declaration, in accordance with the *Statutory Declarations Act 1959* (Cth), subject to the penalties provided by that Act for making false statements in Statutory Declarations, and I conscientiously believe that the statements contained in this Declaration are true in every respect.

Signature ¹

Name

Official Position Held ²

Date

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Signature of witness ³:

Name of witness:

Date

- 1.** To be signed by the Tenderer personally, except in the case of an Incorporated Entity, when the Managing Director or a Director of the Company shall sign.
- 2.** i.e. Managing Director, Company Director, Company Secretary, etc.
- 3.** The witness must be a person before whom Statutory Declarations can be made.

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STATEMENT D: WORK HEALTH AND SAFETY (WHS)

Note to Tenderers

Tenderers must comply with the *Work Health and Safety Act 2011* and must provide Information regarding their WHS Management System (WHSMS) in the table below. By completing this statement, the Tenderer demonstrates how its WHSMS meets its obligations under the Act.

DFAT may request from the Tenderer at any stage information related to WHS considerations relevant to this Tender, including but not limited to policy documents, operational plans, risk assessments, completed WHS inspections, incident reports and audit reports that relate to work health and safety in the workplace.

DFAT may call upon the successful tenderer to modify its WHSMS during contract negotiations and/or once the Services have commenced. The successful tenderer must comply with DFAT directions at its own cost.

	Yes	No	N/A	Provide comments if your response to any question is "No" or "Not Applicable (N/A)", or if a response is required.
Governance				
Our organisational details are current as at tender closing date.				
Our company has a documented WHS policy and/or management plan in place. Provide web address (link) in the comments column if this is publicly available.				
Our company complies with the relevant Codes of Practice as applicable to this contract.				
Managing WHS Risks				
The company's WHS roles and responsibilities are outlined in a WHS policy document.				
Our company has identified and trained staff with responsibilities for WHS, including Health and Safety Representatives.				

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	Yes	No	N/A	Provide comments if your response to any question is "No" or "Not Applicable (N/A)", or if a response is required.
Our company has documented and regularly audited systems in place for the control of high risk activities relating to the delivery of services under the contract. This includes processes for: risk management, incident reporting and investigation, asbestos management, emergency procedures, and training.				
Establishing and maintaining WHS Registers				
Our company undertakes a documented risk based approach to WHS, including site inspections, hazard and risk assessment and mitigation and periodic review.				
Our company provides WHS training to workers at induction, including any task-specific training, and maintains a record of WHS training, including any licencing and/or qualifications required for this work				
Our company consults and communicates with its workers on all WHS issues.				
Where our company uses hazardous substances and/or dangerous goods, we maintain safe systems of work, including a register, and relevant safety data sheets.				
Our company provides and maintains any required equipment (including personal protective equipment and electrical equipment) issued to workers.				
The following document templates are available for inspection (please insert list in the comments box).				
Workplace inspection checklist template				
Incident investigation report template				
Hazard reports template				

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	Yes	No	N/A	Provide comments if your response to any question is "No" or "Not Applicable (N/A)", or if a response is required.
Injury Management				
Workers compensation policy in place				
Return to work program provided				
Has the company ever been required to report a 'notifiable incident' to the Regulator (ComCare). A notifiable incident is: The death of a person A 'serious injury or illness' arising out of the conduct of a business or undertaking at a workplace. Please provide details.				

Signature of Officer

Name

Official Position Held

Date

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STATEMENT E– BANK UNDERTAKINGS AND PERFORMANCE GUARANTEE

During contract negotiations with a Tenderer and depending on the outcome of the tender evaluation including the Financial Viability Assessment, DFAT may require the Tenderer to put in place a Bank Undertaking or Performance Guarantee. Reasonable cost associated with this action, if required, may be added to the Tenderer's proposed Management Fee.

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STATEMENT F: TENDER DECLARATION - NOT USED

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STATEMENT G – INDIGENOUS PARTICIPATION PLAN – (NOT USED)

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STATEMENT H – NON COMPLIANCE WITH DRAFT CONTRACT

Tenderers should state their compliance or otherwise with the Draft Contract for this RFT. The table format below should be used in completing this Compliance Statement:

Table: Contract Compliance Statement		
Clause / Schedule / Attachment	Nature of Compliance	Explanation of partial or non-compliance, and proposed alternate wording
	Partially Compliant / Not Compliant	

Instructions for completing the Contract Compliance Statement

Only clauses in the contract that the Tenderer does not comply with or only partially complies with need to be included in the table above. Tenderers are assessed as being compliant with the contract unless the Tenderer declares otherwise.

"Compliant" - means:

- (i) in the case of a clause which is of an informative nature only, the clause has been read and understood;
- (ii) in the case of a clause which imposes a contractual condition, that the condition is agreed; and
- (iii) in the case of a clause which directs that an action be taken, that this has occurred/will occur.

Tenderers should note the extent of non-compliance will be a factor in the evaluation process. Any additional cost or risk that compliance with those variations or additions will impose on the Commonwealth may be taken into consideration in evaluation.

In completing this Compliance Statement, the items should be in the order in which the clauses appear in the Draft Contract and refer to the relevant clause number, Schedule or Attachment. Compliance responses should be limited to the following expressions:

"Partially Compliant" - which means in the case of a clause which imposes a contractual condition, that the Tenderer can meet the condition subject to certain qualifications.

"Not Compliant" - which means:

- (i) in the case of a clause which imposes a contractual condition, that the Tenderer does not agree with that condition; and
- (ii) in the case of a clause which directs that an action be taken, that this has not occurred/will not occur.

Where a Tenderer states that it is partially compliant or not compliant with a clause, the extent of non-compliance should be stated. Tenderers should provide specific reasons for non-compliance with the clause and provide a specific proposal for alternative wording for

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the clause. Non-committal terms such as “Noted” or a failure to respond may be deemed as a response of “Not Compliant”.

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STATEMENT I – ECONOMIC BENEFIT TO THE AUSTRALIAN ECONOMY

Requirements

Government policy requires an assessment of the economic benefit to the Australian Economy as set out in the Commonwealth Procurement Rules (1 March 2017 onwards). DFAT will undertake an assessment of each Tenderer's response addressing Economic Benefit to the Australian Economy to inform the Value for Money Assessment.

Tenderer's must provide information on the profile of the tendering entity and detail of strategies considered relevant to how their proposed supply provides economic benefit to the Australian economy in the below format.

PROFILE OF TENDERING ENTITY

Is your organisation incorporated in Australia?	Y / N
If No, is your organisation a foreign company registered in Australia?	Y / N

Please provide the number of full time equivalent employees for the tendering entity	Whole Organisation	Based in Australia
Total		
Identify as Aboriginal or Torres Strait Islander		
Identify as a person with a disability		
Identify as a woman		

STRATEGIES OF TENDERING ENTITY

Describe any strategies you consider relevant to your proposed supply's economic benefit to the Australian economy
<p>[ONE PAGE]</p> <p><i>Examples of information potential suppliers might include, but are not limited to:</i></p> <ul style="list-style-type: none"> • <i>lowest price, saving the tax payer;</i> • <i>building, leasing or procuring infrastructure that supports Australian communities;</i> • <i>providing skills and training that benefits Australian communities;</i> • <i>employing workers in Australia;</i> • <i>paying taxes in Australia;</i>

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- *the environmental benefit of the proposed solution to Australia, for example, low environmental impact through energy efficient inputs such as computers, air conditioning, telephones and paper;*
- *contributing to positive social outcomes in Australian communities;*
- *using of indigenous businesses;*
- *using SMEs in delivering goods and services, such as a subcontractor or supplier;*
- *research and development related activities and investments (including those undertaken with universities);*
- *transfer of technology to Australian businesses;*
- *positive effects on international competitiveness of Australian businesses (e.g. better linking to global supply chains);*
- *sharing knowledge, skills and technology with SMEs; and*
- *using goods and services from a business that provides services of persons with a disability.*

Guidance note to tenderers: Responses should describe how strategies are being realised / will be realised, as opposed to describing aspirations. For example, a strategy could have already received board approval, dedicated funding, and be in the process of implementation; detail could be provide on how technology or knowledge transfer is being realised at this moment in time. The intent is to be able to consider how likely it is that economic benefits will be realised in practise.

PART 2 – Standard Conditions of Tender**GLOSSARY OF TERMS**

Term	Definition
ACT	Australian Capital Territory
Addendum	Information, clarification or amendment of the RFT or answers to Tenderer questions published by DFAT on the Austender website at: www.Tenders.gov.au
Adviser Remuneration Framework (ARF)	DFAT's Adviser Remuneration Framework as amended from time to time and available here: www.dfat.gov.au
AusTender	Commonwealth Government business opportunities website, located at www.Tenders.gov.au
Building Code	[consult with CVB to determine whether this definition is required] The Commonwealth <i>Building Code 2013</i> available at: www.comlaw.gov.au which sets out the Australian Government's expected standards for all building industry participants involved in Commonwealth-funded construction projects.
Business Day	Any day that is not a Saturday, Sunday, public holiday or bank holiday in the ACT.
Closing Time	The closing time and date for lodgement of Tenders under this RFT as listed RFT Part 1 Table 1: RFT Dates and Times . The Closing Time is Canberra local time unless specified otherwise.
Conditions for Participation	Mandatory minimum requirements that must be met in response to this RFT.
Conflict of Interest	A situation in which a Tenderer (or its Personnel or Referees) has a private or personal interest that may influence, or may appear to have the potential to influence the objective exercise of the Services. The private or personal interest may be a financial or business interest or some other form of benefit or advantage to the Tenderer (or its Personnel or Referees) or may be a benefit to a relative or associate. A conflict of interest creates a reasonable potential appearance to outsiders that the Tenderer's (or its Personnel's or Referees') objective judgement is likely to be compromised, biased or partial. A potential conflict of interest is a situation that may develop into an actual conflict of interest. A perceived conflict of interest is one in which a reasonable person would think that the person's judgement and/or actions may be compromised.
Contact Officer	The central contact point for all enquiries regarding this RFT.

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Contract	The proposed terms and conditions of the Contract that DFAT may enter into with any Preferred Tenderer as attached at Part 3 .
Department	The Commonwealth of Australia, represented by the Department of Foreign Affairs and Trade.
DFAT	The Department of Foreign Affairs and Trade.
Evaluation Committee	The Committee ('EC') appointed by DFAT to assess Tenders against the Evaluation Criteria, as set out in the Tenderer's Response Schedule to this RFT.
Evaluation Criteria	The formal selection criteria against which Tenders will be assessed, as set out in Clause 6 in Part 1 of the RFT.
Former DFAT Employee	A person who was previously employed by DFAT, whose employment ceased within the last nine (9) months and who was substantially involved in the design, preparation, appraisal, review, and/or daily management of this activity.
GST	A Goods and Services Tax levied on the supply of Goods and Services under the <i>A New Tax System (Goods and Services) Tax Act 1999</i> (Cth).
Mandatory Conditions for Participation	These are the mandatory requirements that a Tender must meet in order for the Tender to be considered by the Evaluation Committee.
Minimum Form and Content Services	These are the minimum requirements that a Tender must meet in order for the Tender to be considered by the Evaluation Committee.
Personnel / Tenderer Personnel	Any Personnel nominated by the Tenderer (including Long Term and Short Term Advisers as defined in the Adviser Remuneration Framework and Long Term and Short Term Personnel not under the Adviser Remuneration Framework) to provide the Services.
Request for Tender (RFT)	This document and any Attachments and Schedules, together with any Addenda to the RFT issued by DFAT and posted on the AusTender website.
Services	The Services to be provided under the terms and conditions of the Contract required by DFAT and described in the Statement of Services at Schedule 1 to the Draft Contract.
Relevant Employer	Has the meaning given to the term in the <i>Workplace Gender Equality Act 2012</i> (Cth) ('WGE Act').
Relevant List	Any similar list to the World Bank List maintained by any other donor of development funding.

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Statement of Services ('SOR')	The detailed requirements of DFAT for the provision of the Services as described Schedule 1 (Statement of Services) in Part 3 – Draft Contract.
Preferred Tenderer	The Tenderer selected by DFAT to enter into a negotiation for the Contract for the provision of the Services described in this RFT.
Tender	A Tenderer response submitted to this RFT, substantially in the form of Tenderer Response Schedules 1 - 3 at Part 1 of the RFT
Tenderer	A person who submits a Tender in response to this RFT.
Tenderer Statements	The forms at Part 1 of this RFT that must be completed and/or executed by the Tenderer and which form the Tenderer's response to Tenderer Response Schedule 3 .
Work Health and Safety	has the meaning given to the term under the <i>Work Health and Safety Act</i> (2011) (Cth).
World Bank List	World Bank List means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at: http://web.worldbank.org .

1 Mandatory Conditions for Participation

- 1.1 The Tenderer agrees to contract as a single legal entity.
- (a) If a Tenderer is an unincorporated association and is selected as the Preferred Tenderer, the Tenderer must incorporate prior to entry into contract.
 - (b) If your tender involves more than one organisation, you must in your response to the evaluation criteria and within the page limit, clearly describe what each organisation will specifically be responsible for, and nominate an overall lead entity which if selected as the Preferred Tenderer will be the single legal entity that DFAT contracts with.
 - i) At a minimum, as **Annex 1 to Tenderer Response Schedule 1**, Tenderers must provide any required Letters of Association. Each company represented in a tender must provide an up to one (1) page letter of association addressed to the lead tenderer. The letter should clearly outline the proposed role of the company in the delivery of the Services, and specify any activities they will be leading. If a letter is not provided, DFAT will delete all references to that organisation before the tender is evaluated. The letter must provide an assurance to DFAT from an authorised representative of the company of the company's corporate commitment to and involvement in the provision of the Services.
 - ii) Tenderer associates who are approved by DFAT to undertake identified parts of the Services will be specified in any resultant contract with the Tenderer.
- 1.2 Tenders must be written in English and all measurements must be expressed in Australian legal units of measurement.
- 1.3 Tenders must contain substantially completed **Tenderer Response Schedules 1 – 3** in accordance with the instructions in **Part 1** of the RFT.
- 1.4 The Tenderer and any subcontractors proposed must not be named as not complying with the Workplace Gender Equality Act 2012(Cth) (WGE Act). For the purposes of the WGE Act, the Tenderer must identify whether it is a Relevant Employer under the WGE Act and if it is the Tenderer must provide DFAT with a copy of its current letter of compliance with the WGE Act.
- 1.5 The Tenderer (and any of its proposed subcontractors) must not be subject to an adverse Court or Tribunal decision or Order (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law, or if the Tenderer is so subject, that the Tenderer has fully complied, or is fully complying with the Court or Tribunal decision or Order.
- 1.6 The Tenderer (and any of its proposed subcontractors) must not be listed on the World Bank List or a Relevant List or be the subject of an informal investigation or temporary suspension which could lead to the Tenderer becoming so listed. A Tenderer must immediately notify DFAT if it becomes listed, investigated or suspended by the World Bank or any development donor prior to the award of contract
- 1.7 Tenderers must notify DFAT as soon as practicable after becoming aware of an actual or potential Conflict of Interest in connection with the submission of the Tender or the provision of the Services described in this RFT, or at any time prior to receiving notification of the award of a Contract or the termination

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of this RFT process. If the Tenderer has or may have an actual or potential Conflict of Interest, DFAT may, at its discretion:

- (a) exclude the Tender from further consideration;
- (b) enter into discussions to seek to resolve the conflict of interest; or
- (c) take any other action it considers appropriate.

1.8 Not Used

1.9 Subject to **Clause 2** (Non-Conformity - Unintentional Errors of Form) in this **Part 2**, any failure by a Tenderer to meet the mandatory requirements of the RFT may result in that Tender being excluded from further evaluation.

1.10 Tenderer Response Schedules:

- (a) Tenderers should not provide any pages additional to the page limit – additional pages will be deleted and not evaluated;
- (b) Tenderers should not provide additional material of any kind such as brochures, letters, summaries, photographs or promotional material – such material will be deleted and not evaluated; and
- (c) Tenderers that include additional pages or material, or submit material that is not readable, may be considered non-conforming and as such the entire tender will not be evaluated.

2 Non-conformity - Unintentional Errors of Form

2.1 If DFAT considers that a Tenderer has made an unintentional error of form in its Tender, DFAT may by written request, and at its sole discretion, permit the Tenderer to correct that error within a specified timeframe, by written request by DFAT, but will not permit the Tenderer to submit new or different information that would materially alter the original Tender.

3 Ambiguities, Discrepancies, Inconsistencies, Errors or Omissions

3.1 DFAT will not accept responsibility for any misunderstanding arising from the failure by a Tenderer to comply with the requirements set out in this RFT, or arising from any ambiguity, discrepancy, inconsistency, error or omission contained in a Tender.

4 Amendment of RFT

4.1 DFAT may amend the RFT at any time by issuing an Addendum and posting it on AusTender. All conditions of this RFT will apply to any Addenda issued by DFAT unless amended in the addenda. Upon issue, each Addendum forms part of this RFT.

4.2 DFAT may extend the Closing Time in its sole discretion by issuing an Addendum via AusTender.

4.3 Tenderers who have registered and downloaded the RFT documentation will be

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notified by AusTender via email if an Addendum to the RFT is issued.

- 4.4 DFAT will accept no responsibility if a Tenderer fails to become aware of any Addendum which would have been apparent from a visit to the AusTender page for this RFT.

5 Tenderer Enquiries

- 5.1 All enquiries relating to this RFT should be directed to the Contact Officer.
- 5.2 DFAT will respond to all Tenderer enquiries directed to the Contact Officer in writing before the last date for enquiries from Tenderers to DFAT Date on or before the Last date for addenda (DFAT responses to Tenderer enquiries) as listed at **RFT Part 1 Table 1: RFT Dates and Times**.
- 5.3 If DFAT considers that a Tenderer's enquiry may be relevant to other Tenderers, it may at its discretion and without disclosing the source of the query, publish its response to all Tenderers on a non-attributable basis in the form of an Addendum by notice on the AusTender website.

6 Alterations and Amendments to Tenders

- 6.1 Alterations and amendments to a Tender must be made before the Closing Time.

7 Late lodgement policy

- 7.1 Any Tender lodged after the Closing Time is a late Tender and will not be considered by DFAT.

8 Evaluation of Tenders

- 8.1 Tenders will be evaluated in accordance with the process set out in **Part 1** of the RFT.
- 8.2 DFAT and any individuals or companies engaged in the evaluation will treat the Tender evaluation proceedings and meetings as 'commercial in confidence' and must not discuss the evaluation of any Tender with any person.
- 8.3 Tenderers must not seek information on the evaluation from any individuals or companies involved in the evaluation during the evaluation or any time after the evaluation, except consistent with **Clause 15 of this Part 2**. Any such contact will be considered a breach of confidentiality and if during the evaluation, may result in exclusion of the Tender from further consideration.

Security, Probity and Financial Checks

- 8.4 DFAT and/or a consultancy engaged by DFAT may perform such security, probity and financial investigations and procedures as it may in its sole discretion determine are necessary in relation to Tenderers, their employees, officers, partners, associates, subcontractors or related entities and their officers, employees and subcontractors.
- 8.5 Tenderers will be expected to provide reasonable assistance at their own cost to DFAT regarding any security, probity and financial investigations and procedures, including supplying further information to DFAT on request.

9 Tender Clarification

- 9.1 At any stage DFAT may ask a Tenderer to clarify or provide additional information on any aspect of its Tender, or on any matter that in DFAT's opinion, is relevant to the Tender.
- 9.2 Any omission or failure by the Tenderer to provide detailed information to DFAT as requested will diminish the scoring ability of the Tenderer's Tender and may result in DFAT removing the Tender from further consideration.

10 Tender Prices

- 10.1 Tenderers must provide their Tender prices in **Tenderer Response Schedule 2: Price Tables**. Tender prices should be inclusive of all costs of complying with this RFT and all costs associated with doing all things necessary for the due and proper completion of the proposed contract and:
- (a) be inclusive of all taxes duties and charges excluding goods and services tax ('GST'), if applicable. The GST payable should be separately identified in **Tenderer Response Schedule 2** and will not form part of the Price Assessment;
 - (b) be inclusive of all necessary insurances;
 - (c) be inclusive of any escalation, any allowance for foreign exchange rate variations or other price risks;
 - (d) remain unalterable for the period of Tender validity as listed in **RFT Part 1 Table 1: RFT Dates and Times**;
 - (e) not vary according to the mode of payment;
 - (f) take into account the liability, indemnity and other relevant provisions regarding risk in the Draft Contract; and
 - (g) include detailed information on assumptions used in preparing the pricing.
- 10.2 Tenderers should seek their own independent tax advice in relation to this RFT and the Draft Contract.
- 10.3 DFAT may use the pricing information provided in **Tenderer Response Schedule 2** for the Price Assessment.
- 10.4 DFAT is not bound to accept the lowest price (or any) Tender.

Compliance with Adviser Remuneration Framework

- 10.5 Tenders must comply with DFAT's Adviser Remuneration Framework. Tenderers must not propose an Adviser whose rate exceeds the Maximum rate. If a Tenderer proposes an Adviser between the Market Reference Point and the Maximum rate, the Contact Officer must seek approval from the relevant DFAT delegate during contract negotiations and prior to contract execution. Note, if the DFAT delegate does not accept the rates proposal, DFAT will deem that the Tenderer has proposed an Adviser whose remuneration package is inconsistent with the Adviser Remuneration Framework.

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- 10.6 If a Tenderer proposes an Adviser whose remuneration package is inconsistent with the Adviser Remuneration Framework, DFAT will notify the Tenderer that it has one (1) business day (or such longer period as DFAT may, at its discretion, allow) to take action either by:
- (a) proposing an alternative team member; or
 - (b) renegotiating the Adviser's remuneration package such that the rate complies with the Adviser Remuneration Framework.
- 10.7 Tenderers must ensure that all Advisers are assigned a Job Level and Professional Discipline Category in accordance with the Adviser Remuneration Framework.

11 Competitive neutrality

- 11.1 Competitive Neutrality requires that Government businesses should not enjoy net competitive advantages over their private sector competitors by virtue of public sector ownership.
- 11.2 Tenderers from the public sector should demonstrate in the pricing of their Tender that the requirements of competitive neutrality have been met, including (without limitation) payment of relevant taxes and charges, rates of return and cost of funds.

12 Tenderer Personnel

- 12.1 Individuals with conflicting commitments and current and Former DFAT Employees should not be included in the Tender as Tenderer Personnel or as individuals who will be engaged by the Tenderer if selected as the Preferred Tenderer.
- 12.2 DFAT may reject any Tender which does not disclose the fact that a proposed team member has an existing and continuing commitment to another project (DFAT or otherwise).

13 Referees

- 13.1 Tenderers must provide the name and contact details of Referees, or the completed referee reports (whichever is appropriate), from referees who can attest to the performance of the Tenderer and its Personnel, within the last four years, in the provision of services comparable to the Services.
- 13.2 Tenderers must ensure that nominated Referees:
- (a) do not have an actual or potential Conflict of Interest; and
 - (b) are available to be contacted within three (3) weeks of the Closing Time.
- 13.3 If a Tenderer wishes to nominate a Current or Former DFAT Employee as a referee it must request and receive approval to do so from the DFAT Contact Officer prior to submitting its Tender.
- 13.4 DFAT may, at its discretion and/or by its authorised representative, contact any referee nominated by a Tenderer in its Tender, and may seek additional written or verbal comments from that referee.

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- 13.5 DFAT may also seek information about any Tenderer from any other source, including from within Commonwealth Government departments or agencies, whether or not the individuals or organisations contacted are nominated by the Tenderer.

14 Police Checks

- 14.1 Tenderer Personnel, including those identified as having contact with children in the Draft Contract, may be required to provide Police Clearance Certificates.
- 14.2 The Preferred Tenderer should within **fourteen (14) days** written notice from DFAT provide DFAT with original Police Clearance Certificates for Tenderer Personnel. Each Police Clearance Certificate must:
- (a) be provided for each country in which the individual has lived for **12 months** or longer over the last **five (5) years** and for the individual's country of citizenship; and
 - (b) be dated no earlier than **twelve (12) months** before the Tender Closing Time.
- 14.3 Tenderers should obtain consent to a criminal record check from their Tenderer Personnel and provide information on the purpose for which it will be used.
- 14.4 DFAT reserves the right to require the Tenderer to replace any Tenderer Personnel whose Police Clearance Certificate shows conviction of criminal offences of, or relating to child abuse, and/or set the Tenderer's tender aside and commence negotiations with another Tenderer. Nominated replacement Tenderer Personnel should have qualifications and experience equal to or better than those personnel being replaced and should be acceptable to DFAT.

15 Debriefing

- 15.1 Following the rejection of a Tender or the award of a contract, DFAT will promptly inform affected Tenderers of the decision. Debriefings will be made available, if requested within 14 days, to unsuccessful Tenderers outlining the reasons the Tender was unsuccessful. Debriefings will also be made available, if requested within 14 days, to the successful supplier.

16 Public Statements

- 16.1 Tenderers should not make any public statements or provide any information to the media or any other third party in relation to this RFT or any Contract arising out of this RFT, without the prior written approval of DFAT.

17 Ownership of Tenders

- 17.1 All Tenders become the property of DFAT upon lodgement.
- 17.2 DFAT may disclose the contents of any Tender to its representatives and advisers for the purposes of assisting DFAT with this RFT process. DFAT may, at its discretion, seek appropriate confidentiality obligations from those representatives or advisers where such disclosure is made.

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- 17.3 Nothing in this **Clause 17** affects the ownership of intellectual property in any Tender.

18 Entry into Contract and Conduct of Contract negotiations

- 18.1 This RFT is not a contract between the Commonwealth and the Tenderer, nor an offer to contract.
- 18.2 Nothing in this RFT, any Tender, or any conduct or statement made by either DFAT or a Tenderer before or after the issue of this RFT is to be construed so as to give rise to any contractual obligations, express or implied, or any obligations in equity between DFAT and any Tenderer.
- 18.3 Following selection of a Preferred Tenderer, DFAT may enter into contract negotiations with the Preferred Tenderer.
- 18.4 The Commonwealth intends to enter into a contract with the Preferred Tenderer substantially in the form of the Draft Contract at **Part 3** of this RFT.
- 18.5 Without limiting DFAT's rights, during contract negotiations, DFAT may:
- (a) engage in detailed discussions with one or more Tenderers in person or via email;
 - (b) request a Tenderer to improve or consolidate any aspect of a Tender;
 - (c) request a Tenderer to provide revised pricing to reflect negotiation outcomes (including submitting a best and final offer);
 - (d) decline to consider a Tenderer's revised pricing if DFAT considers that the Tenderer has changed the underlying basis on which the Tenderer's pricing was calculated;
 - (e) reject the Preferred Tenderer's Tender, discontinue negotiations with that Tenderer and/or re-enter negotiations with other Tenderers (including or excluding the Preferred Tenderer) if in DFAT's view during final negotiations, the Preferred Tenderer retracts or attempts to retract agreements under which material business, financial, technical and legal issues were resolved during negotiations, or in DFAT's opinion the Tenderer is not negotiating in good faith;
 - (f) request the Tenderer to negotiate in good faith a proportionate reduction to the Tendered price if the Statement of Services is reduced as a result of constraints imposed on DFAT either before or after the Closing Time; and
 - (g) take into account the outcome of negotiations in finalising the evaluation of Tenders and in making a selection decision in declaring the Preferred Tenderer.
- 18.6 No binding agreement, express or implied (including, without limitation, any form or contractual, quasi-contractual, restitutionary or promissory estoppel rights, or rights based upon similar legal or equitable grounds), is intended to be created between DFAT and any Tenderer in relation to the Services of this RFT and the Tender process or in any other respect until a formal written contract is executed by DFAT and a Tenderer.

19 Operation of the Contract

- 19.1 The Contract entered into will alone govern the legal relationship between DFAT and any Preferred Tenderer.

20 False or Misleading Claims

- 20.1 Tenderers should be aware that giving false or misleading information to the Commonwealth is an offence under Part 7.4 of the *Criminal Code Act 1995* (Cth).
- 20.2 If a Tenderer is found to have made false or misleading claims or statements or to have obtained improper assistance connected with the preparation of its Tender or its participation in this RFT process, DFAT may remove the Tender from further consideration.

21 Unlawful Inducements

- 21.1 Tenderers, their officers, employees, agents and advisers must not violate any applicable laws or Commonwealth policies in relation to unlawful inducements in connection with the preparation of a Tender or participation in this RFT process. Submission of the Tender by the Tenderer constitutes a warranty by the Tenderer in this regard.
- 21.2 If a Tenderer is found to have violated any applicable laws or Commonwealth policies regarding the offering of inducements connected with the preparation of its Tender or its participation in this RFT process, DFAT may remove the Tender from further consideration.

22 Collusive Tendering and improper assistance

- 22.1 Tenderers, their officers, employees, agents and advisers must not engage in any collusive Tendering, anti-competitive conduct or any similar conduct with any other Tenderer or person in relation to the preparation of a Tender or participation in this RFT process.
- 22.2 Tenders compiled with the assistance of current DFAT employees or Former DFAT Employees will be excluded from consideration.
- 22.3 If a Tenderer is found to have engaged in any collusive tendering or other anti-competitive practices with any other Tenderer or any other person in the preparation of its Tender or its participation in this RFT process, DFAT may remove the Tender from further consideration.

23 Commonwealth Procurement Rules and PGPA Act

- 23.1 Tenderers should be aware that the Commonwealth Procurement Rules ('CPRs') and the *Public Governance Performance and Accountability Act Rules 2013* (Cth) ('PGPA Act') as amended from time to time, apply to this RFT. The CPRs are available at: <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/index.html>.

The PGPA Act is available at <http://www.comlaw.gov.au>

24 Privacy, Disclosure and Confidentiality

- 24.1 DFAT will treat as confidential any information provided by the Tenderer prior to the award of a Contract (other than information in the public domain).
- 24.2 Once a contract has been awarded to a Tenderer, DFAT will not keep information provided by that Tenderer confidential unless:
- (a) the Tenderer requests specific information which it considers should be kept confidential in **Table 1** (Confidential Information) at **Statement B of Tenderer Response Schedule 3**;

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- (b) the specific information is by its nature confidential or is personal information under the *Privacy Act 1988* (Cth); and
- (c) DFAT agrees to that request or is otherwise bound by law not to disclose the information.

24.3 In considering a request for confidentiality, DFAT will consider whether disclosure would cause detriment to a Tenderer or a third party.

24.4 DFAT will also consider whether confidentiality is supported by the underpinning principles of Commonwealth procurement such as value for money, accountability and transparency.

24.5 DFAT may disclose:

- (a) details of Commonwealth contracts with an estimated value of **AUD10,000** (GST inclusive) or more, and standing offers on AusTender;
- (b) Commonwealth contracts and contract information to the responsible Minister, to a House or a Committee of the Parliament of the Commonwealth of Australia, to the Australian National Audit Office, to the Commonwealth Ombudsman or any other body as authorised or required by law to enable them to carry out their functions; and
- (c) information collected from Tenderers in accordance with the Privacy Act including disclosure to EC members and/or Commonwealth Government departments and agencies to facilitate Tender evaluation.

25 Application of law and Commonwealth policy

25.1 Tenderers must at all times abide by Commonwealth Law and Australian Government Policies.

25.2 DFAT reserves the right in its absolute discretion to exclude from consideration any Tender:

- (a) where any of the Tenderer's Personnel have been convicted of, or are being investigated for, a criminal offence;
- (b) on the grounds of bankruptcy, insolvency or significant deficiencies in performance of any substantive requirement or obligation under a prior contract in accordance with Rule 10.16 of the CPRs;
- (c) which is late, incomplete (including those with electronic files that cannot be read or decrypted) or which DFAT believes to potentially contain any virus, worm, malicious code, disabling features or anything else that might compromise the integrity or security of AusTender and/or DFAT's computing environment; and
- (d) where the Tenderer is on the World Bank List or a Relevant List or becomes the subject of an investigation or temporary suspension which may lead to it becoming so listed.

26 Complaints

26.1 Any complaints arising out of the RFT process should be made in writing to the Contact Officer.

26.2 All complaints related to this RFT process will be dealt with in accordance with DFAT's Policy on Complaints Handling (available at www.dfat.gov.au).

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- 27.1 This RFT is to be construed in accordance with, and any matter related to the RFT process is to be governed by, the laws of the Australian Capital Territory ('ACT'). The ACT will have sole jurisdiction for any dispute resolution.

28 Disclaimer

- 28.1 Although certain information is contained in this RFT, Tenderers should make their own independent assessment and investigations and obtain their own independent advice regarding the subject matter of the RFT. Neither the Commonwealth of Australia, its employees, agents or contractors:
- (a) makes any representations or warranties as to the accuracy, reliability or completeness of the information; nor
 - (b) has any liability under the law or otherwise arising from the information, the Tender process or any activity associated with them.

29 Tenderer Costs

- 29.1 All costs and expenses incurred by a Tenderer in connection with this RFT, including but not limited to the costs associated with preparing and lodging a Tender, responding to requests from DFAT and providing further information sought by DFAT, hosting site visits or attending industry briefings/site inspections, interviews or contract negotiations, are the sole responsibility of the Tenderer.
- 29.2 DFAT will not be, and is not, liable for any lost profit, lost opportunity or other losses sustained by the Tenderer as a result of responding to this RFT.

PART 3 – Draft Contract



Australian Government

Department of Foreign Affairs and Trade

DFAT – Goods and Services Contract

Dated

**Commonwealth of Australia represented by the Department of
Foreign Affairs and Trade (ABN 47 065 634 525) ('DFAT')**

[insert Contractor's name] (ABN *[insert]*) ('Contractor')

FOR

Australia Pacific Training Coalition (APTC)

DFAT AGREEMENT NUMBER: 00000

[Contractor's Name], ABN XX XXX XXX XXX of [insert address] (the "Contractor").

RECITALS:

- A. DFAT requires the provision of certain Goods and/or Services for the purposes of the Australia Pacific Training Coalition (APTC) (the "Project").
- B. The Contractor has expertise in the provision of the Goods and/or Services and has offered to provide the Goods and/or Services to DFAT subject to the terms and conditions of this Contract.

OPERATIVE:

DFAT and the Contractor promise to carry out and complete their respective obligations in accordance with the attached **Parts 1-7** and the Schedules.

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the
Department of Foreign Affairs and Trade by:

in the presence of:

Signature of PGPA Delegate/authorised
DFAT representative

Signature of witness

Name of Delegate/authorised DFAT
representative
(*Print*)

Name of witness
(*Print*)

Date

Date

SIGNED for and on behalf of
CONTRACTOR’S NAME by:

Signature of Director

Signature of Director/company Secretary

Name of Director
(*Print*)

Name of Director/company Secretary
(*Print*)

Date

Date

STRUCTURE OF THE CONTRACT

This Contract has seven (7) **Parts** and ten (10) **Schedules** as follows:

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**Part 3 – DRAFT CONTRACT
APTC RFT**

Parties	DFAT and the Contractor				
DFAT	The Commonwealth of Australia represented by the Department Foreign Affairs and Trade (ABN 47 065 634 525)				
	R.G Casey Building, John McEwen Crescent Barton, ACT 0221				
Contact					
Contractor	{insert}			ARBN	{insert}
	Acting as Trustee:	Y/N	Small Business:	Y/N	
	Registered for GST:	Y/N	AB N:	{insert}	
Contact	Name:			Telephone:	{insert}
	Position:	{insert}			
	Street address:	{insert}			
	Postal address:	{insert}			
	E-mail address:	{insert}			
Contractor's Escalation Representative	Name:			Telephone:	{insert}
	Position:	{insert}			
	Street address:	{insert}			
	Postal address:	{insert}			
	E-mail address:	{insert}			
Term	Commencement Date:		{insert Contract execution date}		
	Project Start Date: [insert date Services to commence in country]				
	Term:		{insert Project Start Date and End Date}		
	Option Period:		{Insert option Period}		

PART 1 – COMMON PROVISIONS

1. DEFINITIONS

1.1 In this Contract:

APS Code of Conduct refers to the code of conduct of the Australian Public Service available at www.apsc.gov.au.

APS Values refers to the values of the Australian Public Service available at www.apsc.gov.au.

Adviser means an individual who provides advice (including technical, leadership/oversight) on the strategic direction or implementation of the Project/ Program and is engaged under this Contract by the Contractor, but does not include locally engaged staff employed in non-specialist roles associated with this Contract (including staff engaged in administrative or logistical roles, Contractor's head office staff or contractor representatives).

Adviser Remuneration Framework means the Framework that defines DFAT's policies and procedures for determining the remuneration of commercially contracted international aid advisers and outlines requirements for implementing and monitoring these policies. DFAT staff (and Managing Contractors engaging Advisers on DFAT's behalf) must work within the Framework, as amended from time to time. It is and available on DFAT's website at

<http://dfat.gov.au/about-us/publications/Pages/adviser-remuneration-framework.aspx>.

Associates means an organisation or organisations whom the Contractor identified in its tender for the provision of the Services as an associate or joint venture or consortium member to provide the Goods and/or Services.

Authority includes any Australian Government (whether State, Territory, Commonwealth or Local Government) Ministry, department, government, governmental or semi-governmental authority, agency, instrumentality, council, corporation, utility or other legal entity.

Business Day any day that is not a Saturday, Sunday, public holiday or bank holiday in the ACT.

Changed Tax means a new or existing Commonwealth, State or Territory Government or Partner Country tax, duty or charge imposed or a change in an existing Commonwealth, State or Territory Government or Partner Country tax, duty or charge after the execution of this Contract.

Commencement Date is the date of execution of this Contract by the Parties.

Commonwealth means the Commonwealth of Australia or DFAT, as appropriate.

Commonwealth Grant Rules and Guidelines means the guidelines issued by the Minister for Finance that govern granting activities by Commonwealth agencies and departments. Details are available at <http://www.finance.gov.au>

Commonwealth Procurement Rules ('CPRs') means the Rules made in accordance with the Public Governance Performance and Accountability Act 2013 (Cth).

Confidential Information means the Confidential Information identified by the Parties at **Schedule 4** (Confidential Information) to this Contract.

Contract Material means all material brought into existence in the course of the Contractor's performance of this Contract, including documents, visual data, information, text and data stored by any means.

Contract means this agreement including the Details, Parts, Schedules and any Annexes (but not including headings).

Contractor Confidential Information means information that is by its nature confidential and/or is designated as confidential in **Schedule 4** (Confidential Information) but does not include this Contract or information which is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation (Refer to Department of Finance's Confidentiality Test for more information: <http://finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html>).

Contract Details means the details set out in Contract Details table of this Contract.

Contract Management Group means the representatives nominated by DFAT and the Contractor as set out in the Contract Details table of this Contract.

Control of a corporation means having the power (directly or indirectly) to control more than 50% of the membership of the board of directors, more than 50% of the voting shares of the corporation, or otherwise direct or cause the direction of the management and policies of the corporation.

Data includes any information provided by the Contractor under this Contract from any source, or collected or created by the Contractor in connection with the Services, whether in magnetic, electronic, hardcopy or any other form.

Daily Remuneration Rate has the meaning given in **Schedule 2** (Pricing Schedule).

Day/s means calendar days.

Dependent Child means a child under 21 years of age who is a natural, step- or adopted child of the Adviser, a child of the Adviser's Partner or a child for whom the Adviser is a legal guardian."

DFAT means Commonwealth of Australia represented by the Department of Foreign Affairs and Trade.

DFAT Confidential Information means information that is by its nature confidential and/or is designated as confidential in **Schedule 4** (Confidential Information) but does not include this Contract or information which is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation (Refer to Department of Finance's Confidentiality Test for more information: <http://finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html>).

[policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html](#)).

DFAT Material means any Material created by DFAT, and/or provided by DFAT to the Contractor.

DFAT Representative means the person nominated by DFAT in the Contract Details.

DFAT Supplied Items means all items of equipment, materials and facilities owned or controlled by DFAT, which the Contractor and its Personnel may procure or use in the course of providing the Goods and/or Services.

Disposal means disposal by an authority for the disposal of Commonwealth records in accordance with the *Archives Act 1983* (Cth).

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention.

Escalation Representative means the Representative appointed by either the Contractor or DFAT in accordance with **Clause 51** (Dispute Resolution).

Fees means the fees for the Services set out in **Schedule 2** (Pricing Schedule), not including Reimbursable Costs.

Force Majeure Event includes acts of god or war, pandemic, act of public enemy, terrorist act, civil unrest, nationalisation, expropriation, embargo, restraint of property by government, strike or other form of industrial dispute, provided that they are outside the reasonable control of the affected Party and could not have been prevented or avoided by that Party taking all reasonable steps.

Former DFAT Employee A person who was previously employed by DFAT, whose employment ceased within the last **nine (9) months** and who was substantially involved in the design, preparation, appraisal, review, and or daily management of this Contract.

Fraud means dishonestly obtaining a benefit, or causing a Loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

General Interest Charge Rate means the general interest charge rate defined in the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day.

Goods means the parts, equipment, consumables or other items (if any) described in **Schedule 1** (Statement of Requirements).

Independent Auditor means an auditing firm that does not have any affiliations with, and is not currently engaged by, the Contractor in any manner.

Intellectual Property means all intellectual property rights including copyright, and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs and patents, and any other rights resulting from intellectual endeavour.

Long Term Adviser or **LTA** means an Adviser working continuously for **six (6) months** or longer on the Project.

Loss or **Losses** means any damage, liability, cost or expense including legal expenses.

Material includes property, equipment, information, data, photographs, documentation or other material in any form, including any software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

Mobility Allowance means the supplemental payment payable to Long Term Advisers in addition to the Monthly Remuneration Rate in accordance with the Adviser Remuneration Framework.

Mobility Allowance Supplement means a fixed monthly allowance paid to long term advisers who have relocated in-country from their permanent country of residence and are accompanied by at least one Dependent Child who attends kindergarten (primary education) through to year 12 (secondary education).

Monthly Remuneration Rate has the meaning given in **Schedule 2** (Pricing Schedule).

Moral Rights means the rights of authors in relation to attribution and integrity of authorship or the right against false attribution.

NAA means the National Archives of Australia.

Partner Country means the country/countries in which the Services are to be delivered as specified in **Schedule 1** (Statement of Requirements).

Partner Government means the Government of the relevant Partner Country or Partner Countries.

Party means DFAT or the Contractor or a Department or Agency that has signed **Schedule 9** (Department/Agency Access Form).

Payment Milestone means a milestone identified in **Annex 2 (Management Fees Payable by Milestone)** to **Schedule 2** (Pricing Schedule) for which the Contractor is entitled to receive a payment in accordance with the Contract.

Persistent Breach means **three (3)** or more breaches of the same Performance Standard as outlined in **Clause 9** of the Standard Conditions or any performance standards outlined in **Schedule 1** (Statement of Requirements) in any Australian calendar year.

Personnel means the Contractor's officers, employees, agents, advisers, Contractors and subcontractors (including their respective personnel), and includes Specified Personnel and Associates.

Pre-existing Contractor Material means any Material developed by the Contractor that:

- (a) is in existence at the Commencement Date or is subsequently brought into existence other than as a result of the performance of the Contract, and
- (b) is embodied in, or attaches to, the Services or is otherwise necessarily related to the functioning or operation of the Services.

PGPA Act means the *Public Governance, Performance and Accountability Act 2013* (Cth).

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Commissioner means the person so named in the *Australian Information Commissioner Act 2010* (Cth).

PAYG means *Pay As You Go Withholding Non-compliance Tax Act 2012* (Cth).

Project/Program means the name of relevant Project or Program as identified on the Project Design Document.

Project Administration and Equipment means goods and services (such as office furniture, computers, vehicles, communications, utilities and office rent) required by the Contractor for the day-to-day administration of the Project/Program.

Project Director means the specified person nominated in **Schedule 1** (Statement of Requirements)

Project Specific Conditions means **Part 7** of this Contract.

Project Start Date means the date by which the Contractor must commence the Services in the Partner country.

Project Supplies means goods provided to the Partner Country by the Contractor during the course of the Project/Program as required by this Contract.

Record has the meaning given to the term in the *Acts Interpretation Act 1901* (Cth).

Recordkeeping means making and maintaining complete, accurate and reliable evidence of business transactions relevant to the Goods and/or Services provided under this Contract in the form of documents and other recorded information.

Reimbursable Costs means any costs incurred by the Contractor for which DFAT shall reimburse the Contractor as specified in **Schedule 2** (Pricing Schedule).

Relevant Employer has the meaning given to the term in the *Workplace Gender Equality Act 2012*(Cth) ('WGE Act').

Relevant List means any similar list to the World Bank List maintained by any other donor of development funding.

Services means the Services described in the Contract Details, **Schedule 1** (Statement of Requirements) and the Contractor's other obligations under the Standard Conditions of this Contract.

Short Term Advisers or **STA** means Advisers working on the Project/Program for less than **six (6) months** continuously.

Small Business means an enterprise that employs less than the full time equivalent of **20** persons on the day that the Contract is entered into.

Specified Acts means the use, reproduction, adaptation or exploitation of Material in conjunction with the Contract Material.

Special Location Allowance means the country specific income supplement that is payable to Long Term Advisers in accordance with the Adviser Remuneration Framework.

Specified Personnel means the personnel listed as Specified Personnel in **Schedule 1** (Statement of Requirements).

Standard means a document, approved by a recognised body such as Standards Australia, the International Organisation for Standardisation, the International Electro technical Commission or the International Telecommunication Union, that provides, for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory, unless the goods or services are subject to regulation by government.

Standard Contract Conditions means the provisions contained in **Parts 1-6** of the Contract.

Supplies means Project Supplies and Project Administration and Equipment purchased by the Contractor for use in this Project/Program.

Tax Invoice means a tax invoice, which complies with the requirements under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ("GST Act").

Taxable Supply has the meaning it has under the GST Act.

Tender means the Tender submitted by the Contractor together with accompanying documentation as an offer to undertake the Services.

Third Party Issues means any issues or events which may affect the provision of the Goods and/or Services and which are within the control of a party other than DFAT, the Australian High Commission or Australian Embassy in or having responsibility for the Partner Country or the Contractor.

Third Party Material means any Material made available by the Contractor for the purpose of the Contract in which a third party holds Intellectual Property Rights.

Use includes run (in the case of software), copy, modify, adapt, develop, integrate or deal with in any other way.

World Bank List means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at: <http://web.worldbank.org>

2. **INTERPRETATION**

2.1 In this Contract including the Recitals and Schedules, unless the context otherwise requires:

- (a) a reference to this Contract or another instrument includes any variation, amendment, novation, or replacement of any of them;
- (b) words in the singular include the plural and vice versa;
- (c) words denoting a gender include all genders;

- (d) a reference to a person includes a natural person and any type of body or entity whether incorporated or governmental, and any executor, administrator or successor in law of the person;
- (e) a reference to any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (f) “shall” and “must” denote an equivalent positive obligation;
- (g) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to ‘dollars’, ‘\$’ or AUD is a reference to Australian currency;
- (i) a reference to any Party to this Contract includes a permitted substitute or a permitted assign; and
- (j) if a word or phrase is defined, other parts of speech have a corresponding meaning.

- 2.3 No rule of construction shall apply in the interpretation of this Contract to the disadvantage of one Party on the basis that such Party put forward or drafted this Contract or drafted any provision of this Contract.

3. INCONSISTENCY

- 3.1 If there is any inconsistency (whether express or implied from the Contract or otherwise) between the Standard Contract Conditions (Parts 1 – 6 as applicable) and a Schedule to the Contract, the Schedules are to be read subject to the Standard Contract Conditions and the relevant provisions of Standard Contract Conditions of the Contract prevail to the extent of the inconsistency unless explicitly amended in the Project Specific Contract Conditions (Part 7).
- 3.2 If there is any inconsistency between Schedules, the following order of priority in interpretation applies:
- (a) the Statement of Requirements (**Schedule 1**);
 - (b) the Pricing Schedule (**Schedule 2**); and
 - (c) all other Schedules.
- 3.3 If there is any inconsistency between the contents of a Schedule in circumstances where the Schedule is made up of a number of sub-documents, the body of the Schedule will take priority over the sub-documents. The sub-documents have equal status.

4. CONTRACT TERM

- 4.1 This Contract commences upon execution by both Parties on the Commencement Date and continues for the Term as set out in the Contract Details or until all obligations under this Contract have been fulfilled, or this Contract is terminated, except for any clauses which survive termination.]
- 4.2 The Contractor must commence provision of the Goods and/or Services on the Project Start Date by **1 April 2018** and complete the provision of Goods and/or Services by **30 June 2022** as set out in the Contract Details.
- 4.3 The Contractor grants to DFAT an option to extend the term of this Contract for a period of up to **four (4) years**. DFAT may exercise the option by notifying the Contractor in writing prior to the date of completion of the Services specified in **Clause 4.2**. If DFAT exercises the option, the Contractor must continue to provide the Services for the extended term on the terms and conditions contained in this Contract, except that this **Clause 4.3** shall no longer apply
- 4.4 Except to the extent referred to in this **Clause 4**, each Party must bear and is responsible for its own costs in connection with the preparation, execution and carrying into effect of this Contract.

5. SCOPE

- 5.1 This Contract sets out the terms and conditions on which the Contractor agrees to provide the Goods and/or Services and to secure the aims and objectives of the Project/Program as applicable.
- 5.2 The Goods and/or Services to be provided by the Contractor are detailed in **Schedule 1** (Statement of Requirements).
- 5.3 Without limiting any other rights or remedies available to DFAT under this Contract, DFAT may reduce funding available under this Contract if there is a policy or funding decision which impacts upon Australia's overseas development assistance budget and associated programs.
- 5.4 Upon reasonable notice being given by DFAT to the Contractor of policy or funding decisions under **Clause 5.3**, the Contractor will negotiate with DFAT reasonably reduced management fees, personnel fees and operational costs to be paid under this Contract.
- 5.5 This Contract constitutes the sole and entire agreement between the Parties about its subject matter.

6. CONTRACTOR OBLIGATIONS

- 6.1 The Contractor must:
 - (a) provide DFAT with the Good and/or Services as described in **Schedule 1** (Statement of Requirements) in addition to providing DFAT with any incidental Goods and/or Services to enable performance of this Contract;
 - (b) follow DFAT directions (including those issued by an Australian Embassy and High Commission) and cooperate with any third party appointed by DFAT to provide the Goods and/or Services including the provision of any reasonable assistance to third party providers of Goods and/or Services as DFAT may request;
 - (c) ensure the adequacy and lawfulness of any workers' compensation insurance for its Personnel, both in Australia, and in any relevant Country it operates in;
 - (d) remain responsible for the payment of any taxes, or entitlements, other statutory charges and/or any other amount payable to its Personnel and agrees to indemnify DFAT in relation to any fine, penalty or other charge imposed on DFAT as a result of the Contractor's non-compliance with this **Clause 6.1**;
 - (e) assign all Advisers a Job Level and Professional Discipline Category in accordance with the Adviser Remuneration Framework and engage and remunerate Adviser's in accordance with the relevant classification specified in the Adviser Remuneration Framework;

- (f) where an Australian Standard (or in its absence, international) is applicable for Goods and/or Services provide evidence of relevant certifications; and comply with periodic auditing by an independent assessor if requested by DFAT; and
 - (g) ensure that Advisers provide a written declaration prior to confirming their eligibility for allowances under the Adviser Remuneration Framework. The written declaration shall be substantially in accordance with the declaration at **Schedule 7** (Declaration of Status).
- 6.2 The Contractor is responsible for all Goods (and the risk of loss or damage to such Goods) until DFAT accepts them and title passes to DFAT upon payment of the Contractor.

7. NON-EXCLUSIVITY AND VOLUME

- 7.1 The Contractor acknowledges that:
- (a) DFAT has no obligation to acquire any minimum volume of Goods and/or Services from the Contractor; and
 - (b) The Contractor may not be the exclusive provider of Goods and/or Services to DFAT similar to those provided under this Contract.

8. GOODS AND SERVICES TO OTHER AGENCIES

- 8.1 The Contractor may provide Goods and/or Services to any other Commonwealth Agency at its request provided it completes **Schedule 9** (Department/Agency Access Form).
- 8.2 Where a Contractor enters into an arrangement in accordance with **Schedule 9** (Department/Agency Access Form), the terms and conditions of this Contract will apply to the Contract entered into by that Commonwealth Agency.

9. PERFORMANCE STANDARDS

- 9.1 Where delivering the Goods and/or Services, the Contractor must at all times meet the performance standards outlined in this **Clause 9** and any performance standards outlined in **Schedule 1** (Statement of Requirements).
- 9.2 Where this Contract is for Services they must be performed:
- (a) with due skill, care and diligence;
 - (b) to a professional standard and in a timely manner; and
 - (c) in the most cost-effective manner and using suitable materials.
- 9.3 Where this Contract is for Goods, they must:
- (a) be reasonably fit for their intended purpose;
 - (b) be provided in compliance with all relevant Australian Standard (or if none apply, international) and Partner Country industry standards, best practice, guidelines and codes of practice;

- (c) ensure any product resulting from the Goods will be of such a nature and quality, state or condition that they can be reasonably expected to achieve their intended result;
- (d) be provided in a way that demonstrates the Contractor has sought to improve the quality, effectiveness and efficiency of the Goods at every opportunity; and
- (e) where for Construction, be provided in accordance with the design brief and/or functionality requirements and, using new materials unless otherwise specified.

10. WARRANTIES

- 10.1 The Contractor warrants that it does not have any judicial decision against it relating to employee entitlements (not including decisions under appeal), that has not been met in full by the Contractor.
- 10.2 If any judicial decision against the Contractor relating to employee entitlements occurs during the Term of the Contract, the Contractor must notify DFAT immediately.
- 10.3 The Contractor warrants that it has made its own assessment of all information made available to the Contractor in respect of the Services and sought all appropriate professional advice.
- 10.4 The Contractor warrants that it has full corporate power and authority to enter into, perform and observe its obligations under this Contract and that the execution, delivery and performance of this Contract shall be duly and validly authorised by all necessary corporate action.
- 10.5 Where the Contractor is a trustee, the Contractor warrants that it enters this Contract personally and in its capacity as trustee has the power to perform its obligations under this Contract.]

Goods

- 10.6 In relation to Goods provided to DFAT, the Contractor warrants that the Goods:
- (a) are of acceptable quality, are safe and durable;
 - (b) are free from defects in: design, performance, materials and workmanship;
 - (c) are fit for all the purposes for which goods of that kind are commonly supplied;
 - (d) comply with the applicable Australian (or international) Standards identified in Schedule 1 - Statement of Requirements.
 - (e) will not be adversely affected in any way by any date-related issue; and
 - (f) are free of any Encumbrances.

10.7 The Contractor must ensure that DFAT obtains the full benefit of any third party warranties available for the Goods.

Services

10.8 In relation to the Services provided to DFAT by the Contractor under this Contract, the Contractor represents and warrants that:

- (a) its Personnel have the necessary experience, skill, knowledge, expertise and competence to perform the Services;
- (b) the Services or related products are free from defects in design, performance and workmanship and are safe and durable; and
- (c) the services comply with the applicable Australian (or international) Standards identified in Schedule 1 Statement of Requirements.

DFAT Property

10.9 The Contractor warrants that it and its Personnel will:

- (a) use in a proper manner and maintain in good order all DFAT Supplied Items which the Contractor and its Personnel may use in the course of providing the Goods and/or Services under this Contract; and
- (b) promptly return all DFAT Supplied Items upon completion of use or otherwise upon expiry or termination of this Contract.

11. CONFLICT OF INTEREST

11.1 The Contractor warrants that, at the date of signing this Contract, no conflict of interest exists, or is likely to arise in the performance of its obligations under this Contract.

11.2 The Contractor must use its best endeavours to ensure that no conflict of interest arises in relation to the performance of any aspect of this Contract.

12. INSURANCES

12.1 The Contractor must arrange and maintain for the Term of the Contract unless otherwise specified:]

- (a) Public Liability insurance with a limit of at least **AUD20 million** for each and every claim which covers Loss of, or damage to, or Loss of Use of any real or personal property and/or any personal injury to, illness or death of any person arising from the performance of the Contract;
- (b) Motor vehicle third party property damage insurance;
- (c) Workers' Compensation insurance in accordance with **Clause 6.1 (c)** which:
 - (i) fully insures the Contractor for any amount it becomes liable to pay under any statute relating to workers' or accident compensation or for employer's liability at common law;
 - (ii) is effected in the Partner Country as well as every state or territory in Australia where its Personnel normally reside or in which their contract of employment was made; and
 - (iii) where possible at law, extends to indemnify DFAT as principal for DFAT's liability to persons engaged by the Contractor.
 - (iv) adequate property insurance covering any Contract Material, Supplies and the reinstatement of any Data while in the care, custody or control of the Contractor for its full replacement value;
 - (v) adequate Professional Indemnity insurance to cover the Contractor's obligations under this Contract. The Contractor must maintain the necessary insurance each year until the expiration of **three (3)** years after the full Term of the Contract or earlier termination of the Contract;
 - (vi) adequate medical and dental insurance for its Personnel who are engaged to operate outside their country of permanent residence; and
 - (vii) adequate insurance for medical evacuation and evacuation resulting from an insured event for all its Personnel.

- 12.2 Where there is no workers compensation legislation in force in the Partner Country, the Contractor should arrange adequate personal accident and illness insurance (accidental death and weekly benefits) for any of its Personnel not otherwise covered for the Term of the Contract.
- 12.3 The Contractor must, within fourteen (**14**) **Business Days** after a request by DFAT, provide for any insurance policy: a certificate of currency, a list of exclusions; and the amount of excess payable.
- 12.4 Where any policy is to be cancelled, or the level of cover reduced, the Contractor must give DFAT at least fourteen (**14**) **Business Days** prior notice of the cancellation.
- 12.5 Neither the arrangement and maintenance of insurance nor any failure to arrange and maintain such insurance shall in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under the other provisions of this Contract or at law.
- 12.6 Failure by the Contractor to maintain all necessary insurances will entitle DFAT to terminate this Contract immediately in accordance with **Clause 53** (Termination for Breach).
- 12.7 In the event of an insurance claim, any deductible or excess payable will be the responsibility of the Contractor.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 This **Clause 13** does not affect the ownership of the Intellectual Property Rights in any Pre-existing Contractor Material or Third Party Material.
- 13.2 The Contractor must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Pre-Existing Contractor Material or Third Party Material available as a part of the Services.
- 13.3 All Intellectual Property Rights in the Contract Material vest in DFAT on creation.
- 13.4 To the extent that:
- (a) DFAT needs to use any of the Pre-Existing Contractor Material or Third Party Material to receive the full benefit of the Services, the Contractor grants to, or must obtain for, DFAT, a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate that Pre-Existing Contractor Material or Third Party Material; or
 - (b) the Contractor needs to use any of the DFAT Material, or Contract Material, for the purpose of performing its obligations under this Contract, DFAT grants to the Contractor for the term of this Contract, subject to any conditions or restrictions specified by DFAT, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to Use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.

- 13.5 The licence granted to DFAT under **Clause 13.4 (a)** does not include a right to exploit the Pre-Existing Contractor Material or Third Party Material for DFAT's commercial purposes.
- 13.6 The Contractor must deliver all Contract Material to DFAT or to the Partner Government counterpart agency as may be directed in writing by DFAT.
- 13.7 The Contractor warrants that:
- (a) the warranted Materials and DFAT's use of those warranted Materials, will not infringe the Intellectual Property Rights or Moral Rights of any person, and
 - (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in this **Clause 13**.
- 13.8 If a third party claims, or DFAT reasonably believes that a third party is likely to claim, that all or part of the warranted Materials infringe their Intellectual Property Rights or Moral Rights the Contractor must, in addition to the Contractor's obligation under **Clause 14** (Indemnities) and to any other rights that DFAT has against the Contractor, promptly, at the Contractor's expense:
- (a) secure the rights for DFAT to continue to use the affected warranted Materials free of any claim or liability for infringement; or
 - (b) replace or Modify the affected warranted Materials so that the warranted Materials or the use of them does not infringe the Intellectual Property Rights or Moral Rights of any other person without any degradation of the performance or quality of the affected warranted Materials.

13.9 The Contractor warrants or undertakes that the author of any Contract Material, other than Prior Material, has given or will give written consent to the Specified Acts (whether those Specified Acts occur before or after the consent is given) and that such consent extends directly or indirectly to DFAT.

14. INDEMNITIES

14.1 The Contractor indemnifies DFAT (and its officers, employees, agents, and any relevant Partner Country) against any Loss suffered or incurred (including personal injury, death and legal costs and expenses on a solicitor/own client basis) and the cost of time and resources arising from:

- (a) a breach of the Contractor's performance of this Contract;
- (b) an infringement, or an alleged infringement, of the Intellectual Property Rights of any person, which occurred by reason of the performance or use of the Services;
- (c) an infringement or an alleged infringement of the provisions of the *Privacy Act 1988*(Cth), in connection with the Services;
- (d) an investigation carried out by the Ombudsman which arises directly or indirectly, as a result of, and/or due to conduct of the Contractor or its Personnel; and/or
- (e) any act or omission involving fault on the Contractor's or the Contractor Personnel's part in connection with this Contract.

14.2 The indemnity in this **Clause 14** is reduced to the extent that the Loss or liability is directly caused by DFAT, its employees or contractors (except the Contractor) as substantiated by the Contractor.

14.3 DFAT must take any reasonable action to mitigate any Loss arising out of **Clause 14.1**.

15. BRANDING

15.1 The Contractor must:

- (a) identify, and with prior DFAT approval, implement appropriate opportunities for publicising the Project/Program (including signage at each Project/Program site that acknowledges the funding of the Project/Program) in accordance with "DFAT Guidelines for managing Contractors (or NGOs or multilateral agencies) on the use of logos and other forms of acknowledgement" at all times;
- (b) only use the Australian Government/DFAT crest logo with prior approval, (in-line version or stacked version) in Australia or the Australian Aid identifier overseas to denote association with Australia, the Australian Government or DFAT in any publicity or other project related materials; and

- (c) promptly remove Contractor signs at the completion of the Project/Program unless otherwise instructed by DFAT.

16. PUBLICITY

- 16.1 The Contractor may not make media or other announcements or releases relating to this Contract without DFAT's prior written approval except to the extent that the announcement or release is required to be made by law.

17. AGENCY

- 17.1 The Contractor and its Personnel are not, will not be deemed to be and must not represent themselves as being, by virtue of this Contract, an employee, partner or agent of DFAT.
- 17.2 The Contractor acknowledges that it has no authority to bind DFAT without DFAT's specific consent.

18. AMENDMENT

- 18.1 The Contractor must not do anything that amounts to a variation of this Contract in whole or in part otherwise than in accordance with this clause.
- 18.2 The provisions of this Contract may not be amended either in law or in equity except in writing and substantially in the form of a Deed of Amendment signed by both DFAT and the Contractor.

19. WAIVER

- 19.1 A waiver by either Party of a breach of a particular provision of this Contract by the other Party does not operate as a waiver in respect of any other breach, and the failure of either Party to enforce at any time a provision of this Contract is not to be interpreted as a waiver of the provision.

20. SEVERANCE

- 20.1 If any term or condition of this Contract is not enforceable, other terms or conditions of the Contract that are self-sustaining and capable of separate enforcement are to continue in operation.

21. ASSIGNMENT

- 21.1 The Contractor may not assign or transfer any of its rights or obligations under this Contract without DFAT's prior written approval, and where consent is given the Contractor must execute a Deed of Novation substantially in the form of **Schedule 5** (Deed of Novation and Substitution).

22. SURVIVAL

- 22.1 The following clauses survive termination and expiry of this Contract:

Clause 10 (Warranties), **Clause 12** (Insurances), **Clause 13** (Intellectual Property), **Clause 14** (Indemnities), **Clause 25** (Investigation by the Ombudsman), **Clause 27** (Fraud), **Clause 32** (Confidentiality), **Clause 33**

(Privacy), **Clause 39** (Recordkeeping), **Clause 42** (Audit) and any other clause, which by their nature, survive the expiry or termination of this Contract.

22.2 In addition to the survival of clauses outlined at **Clause 22.1**, the expiry or termination of this Contract will not extinguish or affect any rights of either Party against the other accrued prior to termination, or arising at any future time from any breach or non-observance of obligations under this Contract.

23. GOVERNING LAW AND JURISDICTION

23.1 This Contract and any transactions contemplated under this Contract are governed by, and are to be construed in accordance with the laws of the Australian Capital Territory. Each Party to the Contract unconditionally submits to the exclusive jurisdiction of the courts of the Australian Capital Territory.

24. NOTICES

24.1 A notice given under this Contract:

- (a) must be in writing, signed by the Representative, or other authorised officer, marked for the attention of the person set out below and sent to that persons relevant address, by prepaid ordinary post (airmail if posted to or from a place outside Australia) or by facsimile transmission, or by email to the person's email address; and
- (b) will be taken to be received on the date it is delivered (if hand-delivered to the Party), in the case of a pre-paid letter sent by ordinary mail, on the third Business Day (seventh, if posted to or from a place outside Australia) after posting, or on the date of transmission if sent in its entirety to the recipient's facsimile machine (if sent by facsimile), or in the case of email, when it is delivered to a system from which the addressee can retrieve it.

24.2 The addresses, email addresses and fax numbers of the Parties are:]

DFAT

Attention: *Activity Manager and most appropriate address]*
 Address: Department of Foreign Affairs and Trade
 R.G Casey Building
 John McEwen Crescent
 Barton ACT 0221
 AUSTRALIA
 Fax: [insert]
 E-mail: [insert]

Contractor

Attention: [insert]

Address: [insert]

Fax: [insert]

E-mail: [insert]

PART 2 - COMPLIANCE

25. INVESTIGATION BY THE OMBUDSMAN

- 25.1 In carrying out the Services, the Contractor, and an employee or sub-contractor of the Contractor, may be a “Commonwealth service provider” under Section 3BA of the *Ombudsman Act 1976* (Cth).
- 25.2 The Contractor must use its best endeavours, and must ensure that employees and sub-contractors of the Contractor use their best endeavours, in undertaking the Services, not to engage in conduct that:
- (a) would, if the Contractor or an employee or sub-contractor were an officer of DFAT, amount to a breach of duty or to misconduct; or
 - (b) should be brought to the attention of the principal officer of DFAT as defined in the *Ombudsman Act 1976* (Cth).
- 25.3 If the Commonwealth Ombudsman commences an investigation of conduct of the Contractor, as a Commonwealth service provider, the Contractor, at the cost of the Contractor, must cooperate with the investigator including:
- (a) providing all documentation required by the investigator;
 - (b) making Contractor Personnel available to assist the investigator; and
 - (c) allowing the investigator, at any reasonable time of the day, to enter a place occupied by the Contractor and carry on the investigation at that place.
- 25.4 If the Ombudsman brings evidence to the notice of DFAT concerning the conduct of the Contractor, or of an employee or sub-contractor of the Contractor, the Contractor must, at the cost of the Contractor, take whatever remedial action is required by DFAT or by the Ombudsman to rectify the situation.

26. COUNTER-TERRORISM

- 26.1 The Contractor must ensure that funds provided under this Contract (whether through a subcontract or not) do not provide direct or indirect support or resources to:
- (a) organisations and/or individuals associated with terrorism, and
 - (b) organisations and individuals for whom Australia has imposed sanctions under: the *Charter of the United Nations Act 1945* (Cth) and regulations made under that Act; the *Autonomous Sanctions Act 2011* (Cth) and

regulations made under that Act or the World Bank List or a Relevant List.

27. FRAUD

- 27.1 The Contractor must not, and must ensure that Personnel do not, engage in any Fraud and must prevent and detect Fraud, including Fraud by its Personnel.
- 27.2 Within one month of the Project Start Date, the Contractor must conduct a Fraud risk assessment and produce a Fraud control strategy in compliance with the Commonwealth Fraud Control Framework available at www.ag.gov.au. The risk assessment and strategy must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures.
- 27.3 The Contractor is responsible for preventing and detecting Fraud including Fraud within those functions outsourced / performed by a sub-contractor or under any other arrangement established by the Contractor relating to the performance of this Contract.
- 27.4 The Contractor must ensure that Personnel are responsible and accountable to the Contractor for preventing and reporting any Fraud as part of their routine responsibilities. The Contractor must ensure that Personnel who are not employed by the Contractor report Fraud to the Contractor within five (5) Business Days.
- 27.5 If the Contractor becomes aware of a Fraud, it must report the matter to DFAT in writing within five (5) **Business Days**. The written report to DFAT must be signed by a Contractor authorised person and must include the following (where known):
- (a) the name of the Project under which DFAT funding is being provided;
 - (b) name of any Personnel (including any sub-contractors) involved;
 - (c) the allegation(s), including a chronological account of the facts giving rise to the allegation(s);
 - (d) the names of the suspected offender(s) (where known);
 - (e) details of witnesses;
 - (f) copies of relevant documents;
 - (g) references to any relevant legislation;
 - (h) a nominated contact officer;
 - (i) any other relevant information (eg, political sensitivities, any other party or agency that has been informed, involved or that can assist with investigations); and
 - (j) the current status of any inquiries commenced by the Contractor.

- 27.6 If a report has been made in accordance with **Clause 27.5** above, the Contractor must respond within five **(5) Business Days** to any further requests for information DFAT may make.
- 27.7 If the Contractor becomes aware of a Fraud, the Contractor must, in consultation with DFAT, develop and implement a strategy to investigate the Fraud based on the principles set out in the Australian Government Investigations Standards.
- 27.8 The Contractor must investigate any fraud at the Contractor's cost and in accordance with any directions or standards required by DFAT. Whether the Contractor conducts an investigation or appoints an investigator to conduct an investigation, the person conducting the investigation must possess the minimum qualifications specified in the Australian Government Investigation Standards or an equivalent agreed to by DFAT.
- 27.9 DFAT reserves the right to appoint its own investigator, conduct its own investigation or report Fraud to the appropriate law enforcement agencies or any other person or entity DFAT deems appropriate in Australia or in the Partner Country for investigation. If DFAT exercises its rights under this **Clause 27.9**, the Contractor must provide all reasonable assistance that may be required at its sole expense.
- 27.10 After the investigation is finished, if a suspected offender has been identified or at the direction of the Director of DFAT Fraud Control Section, the Contractor must promptly report the Fraud to the local police and any other appropriate law enforcement agency in the country where the incident has occurred, unless the Director of DFAT- Fraud Control Section agrees otherwise in writing.
- 27.11 If the investigation finds the Contractor or Personnel have engaged in Fraud, the Contractor, in consultation with DFAT, must:
- (a) if DFAT funds have been misappropriated, pay to DFAT the full value of the misappropriated funds; and
 - (b) if DFAT-funded property has been misappropriated, either return the property to DFAT or, if the property cannot be recovered or has been damaged, replace the property with property of equal or greater value or quality, or repair the property, at no cost to DFAT.
- 27.12 If the investigation finds that a person other than the Contractor or Personnel has engaged in Fraud, the Contractor must, at the Contractor's cost, take all reasonable action to recover any DFAT funds or DFAT-funded property acquired or distributed through the Fraud, including taking recovery action in accordance with recovery procedures (including civil litigation) available in the Partner Country.

- 27.13 The Contractor must keep DFAT informed, in writing, on a monthly basis, of the progress of its efforts to recover the DFAT funds or DFAT-funded property, including any recovery action.
- 27.14 If the Contractor considers that all reasonable action has been taken to recover the DFAT funds or DFAT-funded property and recovery has not been achieved or recovery has only been achieved in part, the Contractor may seek approval from DFAT that no further recovery action be taken.
- 27.15 If an investigation finds that the Contractor or Personnel have engaged in Fraud, or if DFAT discovers that a Fraud has not been reported to DFAT in accordance with **Clause 27.5**, DFAT reserves the right to:
- (a) terminate this Contract by giving the Contractor notice in writing specifying the date on which the termination will take effect; and
 - (b) not enter into any further agreements with the Contractor until such time as DFAT is satisfied that any recommended changes to the Contractor's management and procedures have been made in order to prevent any further Fraud from occurring and to ensure timely reporting of fraud to DFAT.
- 27.16 Without limitation to DFAT's rights pursuant to **Clauses 53** and **27.15**, if the Contractor fails to comply with its obligations under this **Clause 27** with respect to a Fraud, DFAT may give the Contractor a written notice which specifies:
- (a) the obligation(s) with which the Contractor has not complied;
 - (b) the action that the Contractor must take to rectify the failure; and
 - (c) the date by which the Contractor must rectify the failure.
- 27.17 If the Contractor does not comply with a notice issued pursuant to **Clause 27.16**, DFAT reserves the right to:
- (a) terminate this Contract in accordance with **Clause 53**; and / or
 - (b) exercise its rights pursuant to **Clause 27.15**; and / or
 - (c) withhold payments (or parts of payments) due to the Contractor under this Contract until the Contractor has complied with the notice.
- 27.18 This **Clause 27** survives the termination or expiration of this Contract, including with respect to any Fraud relating to the performance of this Contract, which is not detected until after this Contract has been terminated or has expired.

28. ANTI - CORRUPTION

- 28.1 The Contractor warrants that neither it nor its Personnel will make or cause to be made, receive or seek to receive any offer, gift or payment, or benefit of any kind, which could be construed as an illegal or corrupt act, either directly or indirectly to any Party, in relation to the execution of this Contract.

28.2 Any breach of this **Clause 28** will entitle DFAT to issue a notice under **Clause 53** (Termination for Breach) to terminate this Contract immediately.

29. COMPLIANCE WITH LAWS AND POLICIES

29.1 The Contractor is responsible for ensuring that it and its Personnel comply with:

- (a) applicable laws of the Commonwealth, any state, territory or local authority and applicable Commonwealth Government policies as set out in this Contract or as notified to the Contractor from time to time.
- (b) applicable laws of any jurisdiction in which any part of the Contract is performed.

29.2 With respect to any monies payable either to DFAT by the Contractor or to the Contractor by DFAT, the Contractor must:

- (a) comply with all relevant provisions of Commonwealth legislation, financial regulations and directions, except to the extent that the relevant obligation is imposed on DFAT; and
- (b) if required by DFAT, comply with any recommendation by the Commonwealth Auditor-General concerning the handling of DFAT's money.

29.3 In performing any part of this Contract outside Australia, the Contractor and its Personnel and Sub-Contractors must:

- (a) not engage in any political activity in the relevant country during the provision of the Goods and/or Services;
- (b) observe all laws and respect all religions and customs of that country; and
- (c) conduct themselves in a manner consistent with the *Public Service Act 1999* (Cth) (including the Australian Public Service Values and Employment Principles and Code of Conduct).

30. SECURITY

30.1 The Contractor is responsible for the security of Contractor Personnel, ensuring that both the Contractor and its Personnel comply with this **Clause 30**.

30.2 If, during the Term of this Contract, the Contractor is required to access or otherwise gains access to Official Information or Security Classified Information, it agrees to comply with:

- (a) all relevant security requirements specified in the Commonwealth Protective Security Policy Framework as minimum standards;
- (b) the security requirements specified in this Contract; and

- (c) any variations or additions to the security requirements under this **Clause 30** that DFAT (in its absolute discretion) notifies the Contractor in writing. Such changes to the security requirements must be implemented by the Contractor from the date specified in the notice (or 5 Business Days after it receives the notice if no date is specified).
- 30.3 The Contractor must ensure that all its Personnel, when using DFAT's premises or facilities, comply with all DFAT procedures and directions relating to security.
- 30.4 If required by DFAT each of the Contractor's Personnel engaged by or on behalf of the Contractor, must meet all necessary security assessments and standards required by DFAT including:
- (a) an identity check;
 - (b) a National Police Clearance check or equivalent;
 - (c) signing any forms notified to the Contractor by DFAT from time to time;
 - (d) holding Australian Government security clearances to the level requested by DFAT in accordance with the Commonwealth Protective Security Policy Framework, or as otherwise required by DFAT;
 - (e) attending and completing a DFAT Security Awareness Course prior to or as soon as possible after the Commencement Date at the Contractor's cost; and
 - (f) complying with any other security awareness requirements reasonably requested by DFAT
- 30.5 DFAT will facilitate the obtaining of security clearances for Contractor Personnel. The Contractor must bear the cost of security clearances for its Personnel. If the security requirements are redefined, the Contractor is entitled to apply to DFAT for a price variation.
- 30.6 All Personnel, where DFAT considers this appropriate, must:
- (a) attend and complete a Departmental Security Awareness Course prior to or as soon as possible after the Commencement Date at the Contractor's cost; and
 - (b) comply with any other security awareness requirements reasonably requested by DFAT.
- 30.7 The Contractor acknowledges that if any of its Personnel lose their security clearance or causes a security breach, DFAT may:
- (a) after consultation with the Contractor, require the replacement of that Personnel; or
 - (b) terminate this Contract for breach.
- 30.8 The Contractor must:

- (a) notify DFAT immediately on becoming aware of any security incident or security breach and comply with all DFAT directions to rectify the security problem; and.
- (b) participate in security reviews of its procedures at least annually as requested by DFAT and participate in any security audit in relation to the Contract, providing full co-operation to DFAT or its independent auditors, including the Australian National Audit Office.

31. WORK HEALTH AND SAFETY

- 31.1 The Contractor must perform its, and must ensure that its Personnel, perform their, obligations under this Contract in strict compliance with the *Work Health and Safety Act 2011* (Cth) ('WHS Act') and are able to participate in:
- (a) any necessary inspections of work in progress;
 - (b) any necessary consultation with DFAT regarding implementation of the WHS Act provisions; and
 - (c) tests and evaluations of the Goods and Services.
- 31.2 The Contractor agrees, when using DFAT's premises or facilities, to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or in regard to those facilities, as notified by DFAT or as might be inferred from the use to which the premises or facilities are being put.
- 31.3 Without limiting any other provision of this Contract, the Contractor agrees to, on request, give all reasonable assistance to DFAT, by way of provision of information and documents, to assist DFAT and its officers as defined in the WHS Act to comply with the duties imposed on them under the WHS Act.
- 31.4 The Contractor acknowledges that DFAT may direct it to take specified measures in connection with the Contractor's work under this Contract that DFAT considers reasonably necessary to deal with an event or circumstance that has or is likely to have, an adverse effect on the health or safety of persons. The Contractor must comply with the direction at its own cost.

32. CONFIDENTIALITY

- 32.1 Neither Party, nor their Personnel may disclose, use or make public the Confidential Information of the other Party (or Confidential Information disclosed by or on behalf of the other) unless required by law, necessary for legal proceedings, provided with the written consent of the relevant Party, or required to manage the Contract. If the Confidential Information is required to be disclosed under this **Clause 32.1**, a Party must use all reasonable endeavours to ensure that persons receiving the Confidential Information do not further disclose the information.

- 32.2 DFAT Data (including DFAT Confidential Information) must not be removed from Australia or the relevant Partner Country.
- 32.3 If a Party is required to disclose Confidential Information by law or for legal proceedings, the disclosing Party must provide reasonable notice to the other Party.
- 32.4 The Contractor must obtain from any Personnel who will have access to DFAT Confidential Information, a written undertaking in the form set out at **Schedule 3** (Deed of Confidentiality) to this Contract relating to non-disclosure of that information.
- 32.5 The Contractor acknowledges and agrees to allow DFAT to publish details and report lists of Contracts valued over certain thresholds, and identify Confidentiality agreements in accordance with Senate Order requirements.
- 32.6 The Contractor acknowledges and agrees to allow DFAT to periodically publish detailed information about work under the Contract on the DFAT website. This will include information about the Contractor's policies, plans, processes, the results of the Contractor's aid activities and DFAT's evaluations of the Contractor's performance. DFAT and the Contractor will consult prior to publication or release of information regarded as sensitive (for example, Fraud or corruption matters).
- 32.7 The identity of the Contractor's Personnel is not Confidential Information, nor is this Contract with the exception of those items specified in **Schedule 4** (Confidential Information).
- 32.8 The Contractor must ensure that it obtains any necessary consent from its Personnel in relation to the requirements of this **Clause 32**.
- 32.9 Upon expiry or earlier termination of this Contract, the Contractor must either destroy or deliver to DFAT all DFAT Confidential Information.

33. PRIVACY

- 33.1 The Contractor is a 'Contracted Service Provider' within the meaning of the *Privacy Act 1988* (Cth) and, to the extent that it deals with personal information in the provision of Services, agrees to:
- (a) comply with the Australian Privacy Principles as they apply to DFAT, including:
 - (i) to use or disclose personal information only for the purposes of this Contract;
 - (ii) take necessary steps to ensure adequate security measures are in place to protect personal information from misuse, interference and loss and from unauthorised access, modification or disclosure;

- (iii) comply with the requirements of Australian Privacy Principle 8 regarding the disclosure of personal information to an overseas recipient;
 - (b) not do any act, or engage in any practice, that would – if done in or engaged in by DFAT – breach the Australian Privacy Principles;
 - (c) comply with any reasonable request or direction of DFAT or the Privacy Commissioner in relation to access to, or handling of, personal information;
 - (d) immediately notify DFAT if it becomes aware of a breach or possible breach of any obligations referred to in this clause, or the initiation of any action by the Privacy Commissioner relevant to this Contract; and
 - (e) investigate any complaint arising out of a breach or possible breach of any obligations referred to in this clause, and notify DFAT of that investigation and outcome.
- 33.2 The Contractor agrees to indemnify DFAT in respect of any loss, liability or expense suffered or incurred by DFAT which arises directly or indirectly from a breach by the Contractor of any obligations referred to in this clause.

PART 3- CONTRACT MANAGEMENT

34. CONTRACT MANAGEMENT GROUP

- 34.1 Each Party must identify one (1) Contract Management Representative to be responsible for operational coordination and contract management and one Escalation Representative to assist in any Dispute Resolution, both to be listed in the Contract Details, and to be changed in accordance with **Clause 24** (Notices).
- 34.2 If required by DFAT, this Contract Management Group may meet on a weekly basis for the first **three (3) months** from the Project Start Date of this Contract and then at a frequency (at least monthly) to be agreed between the Parties.
- 34.3 The Contractor must attend and participate in all Contract Management Group meetings as directed by DFAT and when required, consult, cooperate with, and promptly provide input, information and advice to the Contract Management Group on progress and performance of the Project/Program (including any matters, concerns, circumstances or events which may be affecting or may affect the Contractor's relationship with Stakeholders, DFAT or the Contract Management Group), and suggest actions to mitigate these, or assist in the prompt resolution of these.
- 34.4 A representative of the Contractor must take Minutes of all Contract Management Group Meetings and distribute copies of the Minutes to each member of the Contract Management Group within **ten (10) Business Days** after the relevant meeting.

35. REVIEW

- 35.1 At any time DFAT may itself, or may appoint an independent person or persons to conduct a review of any matter capable of affecting the performance of this Contract.
- 35.2 The Contractor and its Personnel must participate cooperatively in any reviews conducted by DFAT or its nominees, while continuing to perform its obligations under this Contract, and respond in writing to any draft review report within **28 Business Days** after the date of receipt by the Contractor of the draft report.
- 35.3 Each Party must bear its own costs of any such reviews conducted by or on behalf of DFAT.

36. PERFORMANCE ASSESSMENT

- 36.1 The Contractor acknowledges and agrees that DFAT may issue in relation to this Contract:
- (a) a Partner performance assessment;
 - (b) Adviser performance assessments;
 - (c) sub-contractor performance assessments; and
 - (d) sub-contractor key personnel performance assessments.
- 36.2 Performance assessments will be substantially in accordance with the assessment sheet in **Schedule 10** (Partner Performance Assessment). Within 15 days of receiving a performance assessment from DFAT, the Contractor must:
- (a) sign and return to DFAT the Partner Performance Assessment together with any response; and
 - (b) ensure that all other performance assessments together with any response the sub-contractor or any personnel wishes to include are signed and returned to DFAT.
- 36.3 Contractor must undertake Adviser, sub-contractor and sub-contractor personnel assessments as required by DFAT.
- 36.4 The Contractor must insert clauses in any sub-contracts relating to the Contract that require the sub-contractor to agree that:
- (a) DFAT or the Contractor may issue:
 - (i) a sub-contractor performance assessment; or
 - (ii) sub-contractor key personnel performance assessments, in relation to the sub-contract;

- (b) the performance assessments will be substantially in accordance with the assessment sheet in **Schedule 11** (Adviser Performance Assessment); and
- (c) the sub-contractor will sign and return the sub-contractor performance assessment together with any response within 15 days of receipt and will ensure that sub-contractor personnel performance assessments together with any response any personnel wishes to include are signed and returned within 15 days of receipt.

37. SPECIFIED PERSONNEL

- 37.1 It is a material term of this Contract that where Specified Personnel are identified in **Schedule 1** (Statement of Requirements) the Services must be provided by them in their designated roles for the Term of the Contract. If any of them are unable to do so for a period of more than ten **(10) Business Days** the Contractor must not remove or replace them, but must notify DFAT in accordance with **Clause 23** (Notices) and seek DFAT's approval for proposed replacement personnel within ten **(10) Business Days** and at no additional cost to DFAT.
- 37.2 The Contractor must advise DFAT promptly in writing of any change in the circumstances of any Specified Personnel that would reasonably be considered likely to affect DFAT's assessment of the person under the Contract. In the event DFAT directs the Contractor to remove any Personnel as a result of notification under this clause, the Contractor must identify replacement personnel within ten **(10) Business Days**.
- 37.3 The Contractor must only propose replacement personnel with suitable skills and qualifications to act as replacement Specified Personnel and able to commence providing the Goods and/or Services under the Contract immediately.
- 37.4 DFAT may give notice to the Contractor in accordance with **Clause 24** (Notices) requiring the Contractor to remove any Personnel from work in respect of the provision of the Goods and/or Services and propose new Personnel in accordance with **Clauses 37.1** and **37.2** above.
- 37.5 The Contractor must not engage a currently serving Commonwealth employee in any capacity in connection with the Goods and/or Services without DFAT's prior written approval.
- 37.6 The Contractor must not engage a Former DFAT Employee in any capacity in connection with the Goods and/or Services unless DFAT has approved the engagement.

- 37.7 When engaging Personnel for work in a Partner Country, the Contractor will use its best endeavours to ensure they are certified as fit and healthy by a legally qualified medical practitioner to work in the Partner Country, and have received the necessary medical advice, including that on vaccinations and other preventive medical assistance allowing them to undertake work in-country in a safe manner.

38. SUBCONTRACTING

- 38.1 The Contractor may not sub-contract the provision of the whole of the Goods and/or Services and must not enter into a subcontract relating to the provision of the Goods and/or Services with a person who is or an entity which is listed on a World Bank List or a Relevant List.]
- 38.2 The Contractor must obtain DFAT's prior written approval to sub-contract with any third party, except Specified Personnel, to the value of **AUD100,000** or more. In granting its approval, DFAT may impose any conditions it considers appropriate.
- 38.3 [Where DFAT objects to the Contractor's preferred sub-contractor or DFAT nominates a particular sub-contractor in place of the Contractor's preferred sub-contractor, the Contractor must enter into an agreement with the sub-contractor as directed by DFAT on the basis of remuneration approved by DFAT and provide DFAT with a copy of the executed sub-contract.
- 38.4 If the Contractor subcontracts its performance of any part of this Contract, the Contractor will remain liable for the acts, defaults and omissions of the subcontractor as if they were the Contractor's acts, defaults and omissions.
- 38.5 Any subcontract entered into by the Contractor for the performance of any part of this Contract must contain clauses:
- (a) that authorise the Commonwealth to publish details of the name of the subcontractor and the nature of the Services that the subcontractor is subcontracted to perform
 - (b) under which the subcontractor assumes all the Contractor's obligations (including all obligations under Australian Law and development policies), and gives all the warranties the Contractor gives, under this Contract to the extent they are relevant to the Services the subcontractor is subcontracted to perform; and
 - (c) that give DFAT the right of substitution under **Schedule 5** (Deed of Novation and Substitution), to further novate the sub-contract to another contractor. The Contractor entering into a subcontract for the provision of parts or elements of the performance of the Services, or provision of the Goods, does not create any contractual relationship between DFAT and the subcontractor.

PART 4 – RECORDS, AUDIT AND REPORTS

39. RECORDKEEPING

- 39.1 The Contractor must ensure that it and its Personnel at all times to the satisfaction of DFAT:
- (a) keep accurate and up-to-date accounts and records relating to the performance of its obligations under this Contract (including receipts and expenses) in a manner that enables them to be conveniently and properly audited;
 - (b) record all operational activities in relation to the provision of the Services, including to enable the prevention, detection and investigation of Fraud as required by **Clause 27** (Fraud);
 - (c) keep accurate and up-to-date accounts and records which contain details of the disposition of Supplies as agreed to by DFAT, such as replacement, write-off or transfer to the Partner Country;
 - (d) comply with any standards prescribed by DFAT from time to time for the creation, care, access, storage, preservation and return or legal destruction of its accounts and records (including Contract Material) and any DFAT material;
 - (e) provide all reasonable assistance requested by DFAT for any administrative or statutory review concerning this Contract; and
 - (f) retain copies of all accounts and records for a period of **seven (7) years** after termination or expiration of this Contract or completion of any legal action arising out of or in connection with this Contract, whichever occurs later.
- 39.2 DFAT retains legal ownership of all records created for the provision of the Goods and/or Services by the Contractor. Upon termination or completion of this Contract, the Contractor must transfer all records created and maintained for Goods and/or Services provided by the Contractor under this Contract to DFAT in a format and manner which allows the records to be quickly and easily retrieved, reviewed and utilised by DFAT.
- 39.3 The Contractor must store, dispose of, and/or transfer, custody or the ownership of any Commonwealth records in accordance with standards issued under the *Archives Act 1983* (Cth) and/or any specific instructions provided from time to time by the Australian Government through the NAA.
- 39.4 The Contractor must comply with any direction given by DFAT for the purpose of transferring Commonwealth records to the possession, custody or control of the NAA or providing the NAA with full and free access to those records.
- 39.5 The Contractor must maintain up to date records of the names of all sub-contractors engaged by the Contractor to perform part of the Services.

- 39.6 The Contractor may keep one (1) copy of all records created during the course of the provision of the Goods and/or Services for legitimate risk management and audit purposes.

40. ADVISER INFORMATION

- 40.1 In this **Clause 40**, “Adviser Information” means the information which the Contractor must give DFAT in accordance with **Clause 40.2** below, if requested to do so by DFAT. Adviser information may be Personal Information.
- 40.2 The Contractor must give DFAT the following information about each Adviser on **15 July** of each year:
- (a) position title;
 - (b) nature of engagement (short term/long term);
 - (c) ARF discipline category;
 - (d) ARF job level;
 - (e) gender;
 - (f) nationality;
 - (g) work location;
 - (h) contract start and end date;
 - (i) number of days/months worked in the time period specified by DFAT;
 - (j) monthly or Daily Remuneration Rate;
 - (k) Mobility Allowance, if any;
 - (l) Special Location Allowance, if any;
 - (m) Adviser Support Costs including Housing Costs, if any; and
 - (n) any other information regarding remuneration or costs associated with Advisers and identified by DFAT in the request.
- 40.3 In addition to the reporting requirements at **Clause 40.2** above, the Contractor must provide the information specified in **Clause 40.2 (a) – (n)** within **ten (10)** Business Days of receiving a written request from DFAT.
- 40.4 DFAT will use the Adviser Information to ensure that the Australian Government’s official overseas aid program achieves value for money and to meet its reporting requirements.
- 40.5 DFAT may disclose Adviser Information in accordance with **Clause 32** (Confidentiality).
- 40.6 The Contractor must ensure that Advisers, before they are engaged consent in writing to DFAT using the Adviser Information which may be collected under this **Clause 40** for the purposes described in **Clause 40.4** and are aware that:

- (a) DFAT may request, and the Contractor may provide to DFAT, the Adviser Information;
- (b) DFAT may disclose the Adviser Information to Commonwealth Government Departments and Agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament; and
- (c) They are entitled to access their own Personal Information which is held by DFAT, unless DFAT has a lawful right to refuse access.

41. ACCESS TO PREMISES AND RECORDS

41.1 The Contractor must:

- (a) produce records, books and accounts for inspection by DFAT immediately upon request (including where entering into a subcontract and executing a Deed of Novation and Substitution) at the same time or within ten (10) Business Days of execution of the sub-contract by the Contractor.
- (b) permit each of DFAT, the Commonwealth Auditor-General and the Information Privacy Commissioner or Privacy Commissioner as appropriate at reasonable times and on reasonable notice, through their officers, agents or advisers authorised on their behalf, to:
 - (i) access the Contractor's premises;
 - (ii) examine, inspect, audit and copy any accounts and records relating to this Contract or the Goods and/or Services;
 - (iii) provide all necessary facilities for this purpose; and
 - (iv) in the case of documents or records stored on a medium other than in writing, make available to DFAT on request reasonable facilities necessary to enable a legible reproduction to be created.

41.2 In the exercise of the rights under this **Clause 41**, DFAT must use reasonable endeavours not to unreasonably interfere with the Contractor's performance under the Contract in any material respect.

42. AUDIT

42.1 DFAT has the inspection and audit rights described in **Clause 41** (Access to Premises and Records) and this **Clause 42** and subject to these provisions, each Party is to bear its own costs in relation to any audit.

42.2 DFAT or a representative of DFAT may conduct audits relevant to the performance and/or compliance by the Contractor with any of its obligations under the Contract, including audits of the Contractor's relevant:

- (a) operational practices and procedures;
- (b) project and financial management governance;

- (c) oversight practices and procedures;
 - (d) invoices and reports;
 - (e) Material (including records, books and accounts) in the possession of the Contractor; and/or
 - (f) other matters determined by DFAT to be relevant to the performance of the Contractor's obligations under the Contract.
- 42.3 Where DFAT has reasonable concerns regarding the Contractor's financial management systems, DFAT must provide the Contractor with written notification of those concerns outlining the action to be undertaken by the Contractor. These actions include:
- (a) a request that the Contractor's Company Director provide a Statutory Declaration confirming that he/she has sighted the necessary supporting documentation and confirms the veracity of the claim for payment;
 - (b) the Contractor providing DFAT with additional documentation to support the claim for payment; and/or
 - (c) a direction that the Contractor engage an independent, suitable organisation to undertake an audit of those financial management systems, including its invoicing procedures and practices, with a copy of the audit report to be provided to DFAT.
- 42.4 The Contractor must respond to any notice received under **Clause 42.3** above within fourteen **(14) Business days**.
- 42.5 DFAT reserves the right, at any time to direct the Contractor engage an independent audit firm and to provide DFAT with a copy of the audit report from the independent auditor.
- 42.6 If DFAT directs the Contractor to undertake an independent audit it must do so at the Contractor's cost, and the Contractor must comply with any directions given by DFAT regarding terms of reference or required auditing standards.
- 42.7 Where a direction has been made under **Clause 42.6** above, DFAT will not make any further payments owed to the Contractor pending certification of the reliability of the Contractor's financial management systems and the veracity of the invoicing procedures and practices.
- 42.8 This **Clause 42** applies for the term of this Contract and for a period of seven **(7) years** from the date of its expiration or termination.
- 42.9 The requirement for access and participation in audits does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

43. REPORTS

- 43.1 The Contractor must provide DFAT, and if applicable other Commonwealth agencies, at its own cost, the reports described in **Schedule 1** (Statement of Requirements).
- 43.2 The Contractor must at its own cost comply with DFAT's reasonable directions as to the form and content of reports or other written information required under this Contract. DFAT must give the Contractor at least two **(2) weeks** notice of a change in the requirements for reports, unless otherwise agreed with the Contractor.
- 43.3 DFAT may reject and withhold payment of Fees for any report which does not, in the opinion of DFAT, meet the requirements or standards outlined in the Contract until the Contractor rectifies the report.

PART 5- PAYMENT AND TAX

44. INVOICING

- 44.1 The Contractor must invoice DFAT for the provision of Goods and/or Services on a monthly basis, or as otherwise described in **Schedule 2** (Pricing Schedule).
- 44.2 For the purposes of this **Clause 44** (Invoicing) and **Schedule 2** (Pricing Schedule), an invoice is correctly rendered if:
- (a) it is in the form of a valid Tax Invoice under the GST Act (or, where the supply of the Goods and/or Services is not a Taxable Supply, in the form of an invoice approved by DFAT);
 - (b) it is accompanied by supporting documentation in respect of the Goods and Services in the form, and containing the information, reasonably required by DFAT;
 - (c) it is correctly addressed to DFAT and is correctly calculated;
 - (d) it relates only to Goods and/or Services that have been delivered to DFAT in accordance with the Contract;
 - (e) reimbursable costs, and amounts owing to suppliers or sub-contractors have been paid before submission of the invoice to DFAT;
 - (f) the invoice details all Goods and/or Services provided by the Contractor against the Fees referred to in **Schedule 2** (Pricing Schedule) and records the amount payable in respect of each category of Goods and/or Services described in the Contract;
 - (g) the Fees claimed in the invoice are inclusive of all costs, expenses, disbursements, levies and taxes and the actual costs and expenses incurred by the Contractor in providing the Goods and/or Services;

- (h) it is in Australian dollars or converted into Australian dollars at the exchange rate incurred by the Contractor at the time of making the payment; and
 - (i) a company Director of the Contractor or authorised representative of the Contractor has certified that the invoice is accurate and represents the Goods and/or Services provided.
- 44.3 Where the Contract is for Goods, the Contractor must ensure that the charges for, and GST applicable to, the supply of Goods are itemised separately on the relevant invoice.
- 44.4 If an invoice is found to have been rendered incorrectly, any underpayment or overpayment shall be recoverable by or from the Contractor, as the case may be and, without limiting recourse to other available remedies may be offset against any amount subsequently due from DFAT to the Contractor.

45. PAYMENT

- 45.1 Subject to this Contract, DFAT agrees to pay the Contractor the Fees and/or Reimbursable Costs for the provision of the Goods and/or Services in accordance with **Schedule 2** (Pricing Schedule).
- 45.2 Without limiting **Clause 48** (Taxes), the amounts payable under **Schedule 2** (Pricing Schedule) are inclusive of all taxes and duties (including GST) payable in connection with the Goods and/or Services.
- 45.3 Subject to the Contract, DFAT must pay the Fees and Reimbursable Costs within **30 days** of:
- (a) receipt of a correctly rendered invoice in accordance with **Clause 44 (Invoicing)**; and
 - (b) DFAT's acceptance of the satisfactory completion of the Services and/or delivery of the Goods or relevant Payment Milestone as specified in Schedule 2 (**Pricing Schedule**).
- 45.4 DFAT will pay all amounts payable to the Contractor under this Contract into a bank account nominated by the Contractor. The Contractor must provide DFAT with the necessary bank account details as soon as possible following execution of this Contract.
- 45.5 Any requests by the Contractor to change the bank account for payments under this Contract must be provided to DFAT with **30 Business Days** written notice.
- 45.6 If **Clause 45.5** above is not complied with, DFAT will not be responsible for any costs incurred by the Contractor as a result of the change including bank charges or exchange rate variances.

- 45.7 If the Contractor does not have an Australian Business Number ('ABN'), DFAT will be required to hold a prescribed proportion of the amount payable to the Contractor under the Contract, unless the exceptions under **Division 12** of the PAYG legislation apply.

46. PAYMENT NOT AN ADMISSION OF LIABILITY

- 46.1 A payment by DFAT to the Contractor is not an admission of liability. If DFAT makes a payment and subsequently learns that performance specifications have not been met or that, on review, the amount is greater than the amount payable under the Contract, the payment shall be deemed an overpayment and recoverable from the Contractor.
- 46.2 Any overpayment may be offset against any amount subsequently due to the Contractor or may be recovered in Court as a debt due and payable to DFAT by the Contractor.
- 46.3 Where DFAT deducts the amount of a debt or payment in accordance with **Clause 46.2** above, it must advise the Contractor in writing that it has done so.
- 46.4 Unless approved in writing by DFAT, if the Contractor pays an Adviser more than the rate specified in the Adviser Remuneration Framework for the relevant Job Level and Professional Discipline Category:
- (a) the Contractor will not be entitled to seek reimbursement of the excess from DFAT; and
 - (b) if the Contractor discovers the excess payment after it has received reimbursement from DFAT, it must promptly advise DFAT of the excess and deduct the amount of the excess from its next invoice.

47. DISPUTED INVOICES

- 47.1 DFAT need not pay an amount to the Contractor that is disputed in good faith by DFAT until the dispute is resolved.
- 47.2 If DFAT considers in good faith that an invoice exceeds the amount properly payable to the Contractor, DFAT must:
- (a) notify the Contractor of the amount in dispute within ten **(10)** Business Days after receipt of the invoice; and
 - (b) pay the balance of the invoice in accordance with **Clause 45.3** (Payment).
- 47.3 The Contractor must continue to comply with its obligations under this Contract, notwithstanding that there is a disputed invoice.

48. TAXES

- 48.1 Unless otherwise indicated, the amount payable under the Contract for each supply of Goods and/or Services under this Contract as listed in **Schedule 2** (Pricing Schedule) is the value of that supply plus any GST imposed under the GST Act. Payment by DFAT to the Contractor of the GST shall be subject to the Contractor providing DFAT with a valid Tax Invoice issued in accordance with the relevant provisions of the GST Act and regulations.
- 48.2 The total amount of GST payable by the Contractor, and for which the Contractor seeks payment from DFAT in respect of the supply shall be shown as a separate item on the Contractor's Tax Invoice.
- 48.3 If the additional amount under **Clause 48.2** above differs from the amount of GST payable by the Contractor, the additional amount must be adjusted between the Parties.
- 48.4 If a Party is entitled to be reimbursed or indemnified under this Contract, the amount to be reimbursed or indemnified does not include any amount attributable to GST which the Party is entitled to claim back by way of an input tax credit or otherwise.
- 48.5 Except as provided by this **Clause 48**, all taxes, duties and charges imposed or levied in Australia or in the Partner Country in connection with:
- (a) the performance of this Contract (including any sub-contracts entered into for the performance of the Services and the obtaining of any approvals, consents or authorisations); and
 - (b) the sale, purchase, lease, assignment, licence or transfer of any property under this Contract shall be borne by the Contractor or its sub-contractor(s) as the case requires.
- 48.6 If a Changed Tax occurs which affects the cost to the Contractor of providing the Goods and/or Services, the Contractor must give DFAT:
- (a) written notice of the increase, decrease or removal;
 - (b) written notice of the net effect of the Changed Tax on the cost of supplying the Goods and/or Services; and
 - (c) in the case of a decrease or a removal, any supporting evidence of the change and an explanation of its effect on the Management Fees,
 - (d) as soon as practicable after the change in the Changed Tax is announced or the Contractor becomes aware of the increase, decrease or removal.

49. SUPERANNUATION

- 49.1 DFAT will, as the case requires and in accordance with legislative requirements, contribute to a complying Superannuation Fund, a pre-existing fund nominated by the Contractor or where none is nominated to the Australian Superannuation a sum equivalent to the level stipulated from time to time in the *Superannuation Guarantee (Administration) Act 1992* (Cth). The Contractor must include in its invoice for the Goods and/or Services the following information with regards to the superannuation guarantee contributions: superannuation guarantee contribution amount, full name and address of the Superannuation Fund and the Contractor's membership number.

PART 6- REMEDIES, DISPUTES AND TERMINATION

50. REMEDIES

- 50.1 The Contractor must remedy at its own cost:
- (a) any failure to comply with the requirements of this Contract as soon as practicable after becoming aware of the failure; and
 - (b) if this is a Goods Contract, any errors or defects in the Goods notified to the Contractor by the DFAT Representative for the warranty period described in the Contract Details.
- 50.2 If the Contractor fails to rectify an error or a defect under **Clause 50.1** above within ten **(10) Business days** after notification by the DFAT Representative, DFAT may, without limiting the Contractor's warranties and obligations under this **Clause 50**, perform or have performed the necessary remedial work at the expense of the Contractor, and may recover such expense as a debt due to DFAT payable by the Contractor on demand.

51. DISPUTE RESOLUTION

- 51.1 If a dispute arises under this Contract, prior to commencing any arbitration or court proceedings -other than for interlocutory relief or where an authority of the Commonwealth, a state or Territory is investigating a breach or suspected breach of the law by the Contractor, or DFAT is exercising a right to terminate – the Parties must act in good faith and use their reasonable endeavours to resolve the dispute as follows:
- (a) the Party claiming that there is a dispute must give the other a written notice in accordance with **Clause 24** (Notices) setting out the nature of the dispute;
 - (b) within ten **(10) Business Days** following notice, attempt to resolve the dispute through direct negotiation between the Contractor Representative and the DFAT Representative;

- (c) if still unresolved, refer the dispute to each Party's Escalation Representative as set out in the Contract Details, who must in good faith work to resolve the dispute within a further ten **(10) Business Days** or any other agreed period;
- (d) if still unresolved, the Parties have thirty **(30) Business Days** from the receipt of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or conciliation rather than litigation or arbitration; and
- (e) if the dispute is not resolved in that time or there is no agreement to, or submission of the dispute to mediation or conciliation within a further thirty **(30) Business Days**, then either Party may commence legal proceedings.

51.2 Subject to **Clause 45** (Payment), the Contractor and Personnel must continue to comply with its obligations under this Contract, notwithstanding that there is a dispute between the Parties, or that legal proceedings are pending or current.

52. EARLY NOTIFICATION

52.1 The Contractor must immediately notify DFAT if the Contractor (including Contractor Personnel) or a sub-contractor is:

- (a) undergoes a change in Control of the Contractor's legal entity;
- (b) listed on a World Bank List or on a Relevant List;
- (c) subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;
- (d) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
- (e) temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or
- (f) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.

52.2 If the Contractor becomes aware of any issue that may affect its performance of the Contract and in particular its compliance with any of the following clauses: **Clause 9** (Performance Standards), **Clause 10** (Warranties), **Clause 11** (Conflict of Interest), **Clause 12** (Insurances), **Clause 26** (Counter-terrorism), **Clause 27** (Fraud), **Clause 28** (Anti-Corruption), **Clause 29** (Compliance with Laws and Policies), **Clause 30** (Security), **Clause 32** (Confidentiality), **Clause 33** (Privacy) and **Clause 38** (Sub-contracting), (including the use or disclosure of Sensitive, Personal or Confidential Information, or any Security Incident that arises), it must inform DFAT immediately.

53. TERMINATION FOR BREACH

53.1 DFAT may terminate this Contract by notice to the Contractor in accordance with **Clause 24** (Notices) in any of the following circumstances:

- (a) the Contractor commits a material breach or breach which, in DFAT's opinion, is not capable of remedy;
- (b) the Contractor commits a breach capable of being remedied by the Contractor but the Contractor fails to remedy it within ten (10) Business days of receipt of a notice from DFAT specifying the breach and requiring the Contractor to remedy the breach;
- (c) the Contractor commits a Persistent Breach;
- (d) where the Contractor is a company- if there is appointed or if steps are taken to appoint a liquidator, receiver, manager, controller or an administrator over the whole or any part of its affairs;
- (e) where the Contractor is an individual – if it enters into a scheme of arrangement with its creditors, commits any act of bankruptcy or becomes bankrupt, or becomes incapable of managing its own affairs;
- (f) where the Contractor has entered into this Contract in the capacity of trustee of a trust – if any event occurs or any action or step is (or is proposed to be) taken, which limits, restricts, or prevents it being indemnified out of the assets of that trust in respect of its obligations and liabilities under this Contract;
- (g) the Contractor fails to notify DFAT under **Clause 52** (Early Notification);
- (h) the Contractor ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Contract (except to the extent that this is outside the Contractor's reasonable control);
- (i) the Contractor made a statement or warranty in its Tender or failed to make a disclosure in its Tender Declaration leading to this Contract and DFAT is satisfied on reasonable grounds that the statement was materially inaccurate, incorrect or misleading or the failure to make a disclosure would, in DFAT's opinion not have led to the formation of a Contract;
- (j) the Contractor is convicted of any offence during the Term of this Contract;
- (k) the Contractor undergoes a change in Control of the Contractor's legal entity, which in DFAT's reasonable opinion, may adversely affect the Contractor's ability to perform the Services under this Contract;

- (l) the Contractor, its Personnel or subcontractors are or become listed on a World Bank or Relevant List or are subject to any proceedings or an informal process that may lead to them becoming so listed;
- (m) the Contractor does not take appropriate steps to manage and resolve an allegation of child exploitation or abuse with respect to this Contract, including a failure to inform DFAT immediately of any allegation of child abuse or exploitation in accordance with DFAT's *Child Protection Policy*; and/or
- (n) the Contractor commits a breach of **Clauses 29.1** (Compliance with Laws and Policies) or **61.1** (Compliance with DFAT Policies) and does not remedy the breach within ten (10) Business Days (or such longer period as DFAT may specify in the notice) of receipt of a notice from DFAT specifying the breach and requiring the Contractor to remedy the breach.

53.2 For the avoidance of doubt, **Clauses 53.1 (g) to 53.1 (m)** do not limit the generality of **Clauses 53.1 (a) or 53.1 (b)**.

54. TERMINATION FOR CONVENIENCE

- 54.1 DFAT has an unfettered discretion to, by notice to the Contractor in accordance with **Clause 24** (Notices), terminate or reduce the scope of this Contract from the time specified in the notice. Without limiting DFAT's rights under this Contract, at law or in equity, DFAT's rights under this **Clause 54.1** include the discretion to terminate or reduce the scope of this Contract if DFAT determines that the continuation of this Contract, or the continuation of a program or initiative for the purposes of which this Contract was entered into, does not support the achievement of value for money by DFAT. The parties acknowledge and agree that such a determination by DFAT may be made in the absence of a breach of this Contract by the Contractor and due to circumstances beyond the Contractor's control.
- 54.2 If DFAT exercises its right in **Clause 54.1**, the Contractor must comply with directions given by DFAT, cease or reduce (as applicable) the performance of work and immediately do everything possible to mitigate its losses, and all other losses, costs and expenses in connection from, or arising out of Termination, including novate any Subcontracts to DFAT or its nominee, if required by DFAT.
- 54.3 If DFAT terminates this Contract under this **Clause 54**, DFAT will only be liable to the Contractor for the following loss or damage incurred as a direct consequence of termination of this Contract to the extent that they can be reasonably substantiated and are unable to be avoided or mitigated:
- (a) fees and any Reimbursable Costs, as payable under Schedule 2 (Pricing Schedule) for Goods and/or Services provided before the effective date of termination (on a pro-rata basis, if applicable);

- (b) lease termination costs for early termination of leases required specifically and exclusively for the performance of the Contract;
 - (c) the Contractor's finance termination costs required specifically and exclusively for performance of this Contract;
 - (d) payments made to Subcontractors which are not related entities of the Contractor and which were paid prior to the date of notice of termination of this Contract by DFAT; and
 - (e) and excluding all other loss or damage, including the cost of redundancies, the costs of terminating any subcontracts, loss of profits and all other forms of expectation loss.
- 54.4 The Contractor must, in each subcontract, reserve a right of termination to take account of DFAT's right of termination under this **Clause 54** (Termination for Convenience) and the Contractor must make use of such rights to mitigate losses in the event of termination by DFAT under the provisions of this **Clause 54**.
- 54.5 Subject to this Contract, on expiry or termination:
- (a) the Parties are relieved from future performance of this Contract, without prejudice to any right of action that has accrued at the date of termination;
 - (b) all licences and authorisations granted to the Contractor by DFAT under this Contract terminate immediately; and
 - (c) the Contractor must provide DFAT with all reasonable assistance and information to assist DFAT in transitioning to DFAT's new provision of Goods and/or Services arrangements.
- 54.6 The Contractor's obligations under **Clause 54.5** above include, at DFAT's request, continuing for a period of up to **three (3) months** to supply the Goods and/or Services to DFAT on the terms and conditions of this Contract until the time DFAT advises the Contractor that it is no longer required to do so. This clause does not apply during any period DFAT is in breach of an obligation to pay money under this Contract.
- 54.7 DFAT is not obliged to make any further payments to the Contractor (whether under this Contract, at law or in equity) if DFAT exercises its rights in **Clause 54.1** except as expressly provided under this **Clause 54**.

55. FORCE MAJEURE

- 55.1 Despite any other provision of this Contract, if a Party is unable to perform or is delayed in performing an obligation under this Contract (other than an obligation to pay money), by reason of a Force Majeure Event, and notice has been given in accordance with **Clause 55.2** below:
- (a) that obligation is suspended, but only so far and for so long as it is affected by the Force Majeure Event; and
 - (b) the affected Party will not be responsible for any loss or expense suffered or incurred by any other Party as a result of, and to the extent that, the affected Party is unable to perform, or is delayed in performing, its obligations because of the Force Majeure Event.
- 55.2 A Party affected by a Force Majeure Event must give the other Party a written notice which:
- (a) sets out details of the Force Majeure Event (including the effect of the Event on the Contract and details of insurance available to mitigate damage if any);
 - (b) estimates the likely period of time that the Party will not be able to perform, or the Party will be delayed in performing, its obligations; and
 - (c) provides details of the action that it has taken, or proposes to take, to remedy the situation.
- 55.3 The Contractor must:
- (a) arrange a meeting with DFAT within 24 hours' of a notice given under **Clause 55.2** above; and
 - (b) take all reasonable steps to avoid, remove or limit the effects of the Force Majeure Event on its performance of the suspended obligations as quickly as possible and re-commence performing them soon as possible.

56. EXTENSION OF TIME

- 56.1 Subject to **Clause 56.5** below neither DFAT nor the Contractor shall be in breach of the Contract to the extent that performance of their Contract obligations is prevented due to any significant change in circumstances (including change in Partner Country laws, and industrial disputes) that are beyond the control of the Contractor.
- 56.2 Where in the Contractor's reasonable opinion there is likely to be a delay in the Contractor's discharging of an obligation under the Contract due to **Clause 55** (Force Majeure) it must notify DFAT in accordance with **Clause 55.2** providing details of the delay and its likely impact on the performance of the Contract.

- 56.3 Where **Clause 55** (Force Majeure) has been triggered, the Contractor must take all reasonable steps to mitigate the effects of any delay, use its best endeavours to continue to perform the obligations, and where necessary, make a request in writing to DFAT for an extension of time outlining the length of the extension which the Contractor considers reasonable in all the circumstances in the form of an Amendment Proposal in accordance with **Clause 18** (Amendment).
- 56.4 DFAT must give consideration to the Contractor's recommendations and request for an extension of time as soon as practicable after receiving the request in accordance with **Clause 56.3** above and may grant approval subject to conditions.
- 56.5 If DFAT approves in writing a request by the Contractor for an extension of time under **Clause 56.3** above, any resultant changes to the Contract must be documented in a "Deed of Amendment".
- 56.6 Even if the Contractor has not given notice under **Clause 56.2** above, where DFAT considers that a delay has arisen, in whole or in part, because of an act or omission on the part of DFAT, its employees or agents, DFAT may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Contractor.
- 56.7 Where an extension of time has been granted and the Contractor has been unable to perform its obligations for forty five (45) **Business Days** or more, DFAT may suspend the Contract, reduce the scope or terminate the Contract by notice in writing.
- 56.8 In the event of suspension, deletion or termination of the Services or the Contract in accordance with this **Clause 56**, DFAT will be liable for Fees and Reimbursable Costs in accordance with **Clause 54.3** (Termination for Convenience).

57. LIABILITY

- 57.1 If any Party to this Contract consists of more than one person then the liability of those persons in all respects under this Contract is a joint liability of all those persons and a separate liability of each of those persons.
- 57.2 Subject to any law to the Contrary, DFAT, its employees, agents and advisors, disclaim all liability for any loss or damage suffered by any other person acting on any part of the information made available to the Contractor, in respect of the Project, whether or not the Loss arises in connection with any negligence, default or lack of care on the part of DFAT, its employees, agents or advisors.

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PART 7 - PROJECT SPECIFIC CONDITIONS

58. DEFINITIONS

58.1 For the purposes of this **Part 7** the following Definitions Apply:

Director of Workplace Gender Equality means the person so named in **Section 9** of the *Workplace Gender Equality Act 2012* (Cth)

Project Vehicles means vehicles paid for by DFAT for an Australian Aid Program Project or Program and that are provided for Project/Program activities.

59. HANDOVER

59.1 The Contractor must within **twelve (12) months** of the Project Start Date draft and provide to DFAT a copy of, a Handover Plan which includes all the functions to be performed to hand over Contract Material, Supplies, information, documents and other materials to the Partner Country (or to DFAT where Goods and/or Services are provided in Australia) in a manner which ensures the Partner Country is able to benefit from the Project and in particular enables the Partner Country to manage ongoing maintenance requirements, as well as any other matters specified in **Schedule 1**.

59.2 The Contractor must make changes to the Handover Plan as reasonably requested by DFAT and update the Handover Plan as necessary during the Project but at least annually and **six (6) months** before the end of the Contract.

59.3 The Contractor must ensure that a finalised Handover Plan is provided to DFAT within seven **(7) days** of any early termination of the Project, or one month prior to the expected completion of the Project.

59.4 The Contractor must:

- (a) bear the loss or damage in respect of the Supplies until handover of Supplies to the relevant Partner Government or back to DFAT;
- (b) establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at **AUD2,000** or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details; and
- (c) submit to audit by or on behalf of DFAT its Register of Assets and associated documentation such as import documents, invoices and warranties at any time and from time to time.

59.5 On termination of the Contract, the Contractor must provide all reasonable assistance and cooperation necessary to facilitate the provision of further maintenance by DFAT or an alternative Contractor. In particular the Contractor must:

- (a) deliver to DFAT or its nominee complete copies of all the Data and Contract Material, in a form and on a media approved by DFAT, and any other DFAT property including the Supplies;
- (b) either destroy or deliver to DFAT all copies of DFAT Confidential Information as required by DFAT;
- (c) if requested by DFAT, facilitate the assignment to DFAT, DFAT's nominee or to the Partner Country of sub-contracts relating to Supplies, including for licensing and support of information technology and any construction work maintenance;
- (d) vacate the Project Office where this has been supplied by DFAT or the Partner Country; and
- (e) co-operate with DFAT and, if requested, DFAT's nominee, and provide reasonable assistance relating to the transfer of any contracts to DFAT, its nominee or the Partner Country.

60. PROJECT VEHICLE CONTRIBUTION

- 60.1 Project Vehicles remain the responsibility of the Contractor for the term of the Project/Program.
- 60.2 In consideration of the Contractor being entitled to use Project Vehicles for non-project use, the Contractor must contribute **AUD400.00** for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor's invoices.
- 60.3 The Contractor must prioritise project use over private use of vehicles, ensure Personnel have relevant licences, ensure vehicles are appropriately insured and serviced at regular intervals and have seat belts fitted.
- 60.4 The Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used.

61. COMPLIANCE WITH DFAT POLICIES

- 61.1 The Contractor must ensure that it and its Personnel comply with all DFAT policies including:
 - (a) the disability inclusive strategy: '*Development for All 2015-2020: Strategy for strengthening disability-inclusive development in Australia's aid program*', accessible on the DFAT website at: <http://dfat.gov.au/about-us/publications/Pages/development-for-all-2015-2020.aspx>. Particular attention must be directed towards the Strategy's guiding principles;
 - (b) the '*Child Protection Policy*', accessible on the DFAT website at: www.dfat.gov.au;

- (c) the '*Family Planning and the Aid Program: Guiding Principles*' (2009) for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au ;
- (d) information accessibility requirements contained in the '*Guidelines for preparing accessible content*' (2012) for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au ;
- (e) the '*Environment Protection Policy for the Aid Program*' (2014), accessible on the DFAT website at: www.dfat.gov.au;
- (f) the Displacement and Resettlement of People in Development Activities Policy, accessible on the DFAT website at: www.dfat.gov.au; and
- (g) '*Promoting Opportunities for All: Gender Equality and Women's Empowerment*' (November 2011), accessible on the DFAT website at: www.dfat.gov.au.

62. INDIGENOUS PROCUREMENT POLICY

- 62.1 It is Commonwealth policy to stimulate indigenous entrepreneurship and business development, providing indigenous Australians with more opportunities to participate in the economy.
- 62.2 The Contractor must use its reasonable endeavours to increase its purchasing from Indigenous enterprises; and employment of indigenous Australians, in the delivery of the Goods and/or Services.
- 62.3 Purchases from Indigenous enterprises may be in the form of engagement of an Indigenous enterprise as a subcontractor, and use of indigenous suppliers in the Contractor's supply chain.
- 62.4 In this **Clause 62**, "Indigenous enterprise" means an organisation that is 50 per cent or more indigenous owned that is operating a business.
- 62.5 The Contractor will notify the DFAT Representative when there is a purchase from an Indigenous enterprise as outlined in the **Clause 62.4** above.

63. GENDER EQUALITY

- 63.1 The Contractor must comply with its obligations, if any, to promote gender equality in the workplace under *the Workplace Gender Equality Act 2012* (Cth) ('WGE Act')
- 63.2 If the Contractor becomes non-compliant with the WGE Act during the Term of the Contract, the Contractor must notify the DFAT Officer nominated in **Clause 24** (Notices) and DFAT reserves the right to provide the Contractor with directions regarding compliance.

63.3 If the Term of the Contract exceeds **eighteen (18) months**, the Contractor must provide a current letter of compliance with the WGE Act within **18 months** from the Contract Commencement Date and following this, annually, to the DFAT Officer nominated in **Clause 24** (Notices).

64. DESIGN AND IMPLEMENTATION CONTRACT - NOT USED

65. DESIGN PHASE WORK - NOT USED

66. IMPLEMENTATION PHASE WORK - NOT USED

67. PERFORMANCE GUARANTEE

67.1 The Contractor must, at its expense, provide to DFAT, within ten **(10) Business Days** of the Project Start Date, a performance guarantee executed by [insert name of Guarantor] delivered to DFAT, guaranteeing the Contractor's performance of its obligations under the Contract, which must be substantially in the form appearing in **Schedule 6** (Performance Guarantee).

68. CONSTRUCTION SERVICES AND USE OF APPROPRIATE BUILDING MATERIALS - NOT USED

69. PROCUREMENT AND GRANTS

69.1 In procuring all Supplies for the purposes of providing the Goods and/or Services to DFAT (including establishing subcontracts), the Contractor must:

- (a) determine what Supplies are required for proper implementation of the Services and advise DFAT;
- (b) keep DFAT informed of ongoing requirements for Supplies in connection with the Project;
- (c) implement procedures that are consistent with the principles of the Commonwealth Procurement Rules or the Public Governance, Performance and Accountability Act in particular, observing the core principles of achieving value for money and the supporting principles;
- (d) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies;
- (e) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed;

- (f) use its best endeavours to ensure Supplies are free from defects in design, material, manufacture or workmanship. The Contractor must replace defective Supplies under warranty provisions or at its own cost; and
- (g) use the Supplies only for the purposes permitted under this Contract.

69.2 In administering any Grant activities, the Contractor must:

- (a) implement procedures so that grant administration is undertaken in a manner that is consistent with the Commonwealth Grants Rules and Guidelines, in particular the seven Key Principles for Grants Administration; and
- (b) maintain complete and accurate records documenting the procedures followed in selecting grant recipients.

70. LIQUIDATED DAMAGES – NOT USED

71. ACCESSIBILITY REQUIREMENT FOR DFAT WEBSITES

71.1 If the Statement of Requirements requires the Contractor to develop or maintain a website on behalf of DFAT, the Contractor must ensure that the website complies with the Web Content Accessibility Guidelines (WCAG) Version 2.0, Level AA.

SCHEDULE 1 – Statement of Requirements

1. INTRODUCTION

- 1.1 This Statement of Requirements outlines the role of the Contractor in implementing Stage 3 of the Australia Pacific Training Coalition (APTC3). It is to be read in conjunction with the APTC3 Investment Design Document (IDD). The IDD is the primary reference document from which to understand the context, objectives and features of this investment. Where there is inconsistency between the IDD and the Contract, the Contract will take precedence.

2. BACKGROUND

- 2.1 The Australia Pacific Technical College (APTC) is the Australian Government's major investment in Technical and Vocational Education Training (TVET) in the Pacific region.
- 2.2 Stage 1 of APTC ran from 2007 to 2011, Stage 2 from 2011 to 2015, and Stage 2 extension (2Ext) from 2015 to mid-2018. By the end of 2Ext, Australia's investment in APTC is expected to have totalled AUD367million. As found in the 2014 Independent Evaluation, APTC has won strong support from most stakeholders for its capability to successfully deliver a program of high quality technical and vocational training. APTC produced 9,394 graduates with Australian qualifications over Stages 1 and 2 and the milestone of 10,000 graduates was reached in late 2016. APTC has also provided a useful model of quality TVET delivery for local institutions to learn from, and student and employer satisfaction rates have been consistently high.
- 2.3 Three key changes in the direction of APTC3 from previous APTC activities are:
- (a) **Embedding APTC in Pacific TVET Systems.** Rather than operating separately and in parallel as an enclave technical college, APTC will become embedded in Pacific TVET systems, forming partnerships and coalitions with selected TVET institutions and national TVET systems to achieve mutually beneficial outcomes and reforms. This will support improved quality, relevance and cost-effectiveness of TVET provision by local providers.
 - (b) **Gradual introduction of co-investment.** The emphasis placed on scholarships to date (approximately \$6million in APTC scholarships in 2017) has not been consistent with a demand driven system and is not sustainable over time. Demand will be tested by the increasing emphasis on the principle of co-investment, that is, the willingness to contribute to the cost of training by those who benefit from it – individuals, employers and governments. This will reduce reliance on Australian aid and promote prospects for the long-term sustainability of benefits. It is intended that the principle of co-investment be understood primarily as investment in Pacific TVET, not as investment in APTC.

- (c) **Renewed emphasis on labour mobility.** APTC commenced with a labour mobility objective; however, very few APTC graduates have migrated to work in Australia or New Zealand. Up to 2016, only 276 out of 10,087 APTC graduates (2.5 per cent) migrated from their country of residence/citizenship to reside and work overseas. The advent of the Pacific Labour Scheme (PLS) opens up new opportunities to support those APTC graduates and others seeking to work overseas. This will thus receive a much higher priority in Stage 3; however, without causing ‘brain drain’ or concern for employers that they may be sponsoring students intending to migrate. Where labour mobility opportunities exist, all students, male and female, will have the opportunity to nominate for a domestic or labour mobility track. APTC will provide eligible students in the latter group with the additional training required. Further support to meet migration requirements will also be provided, through the forthcoming Pacific Labour Facility. These initiatives will support Australian and Pacific Island labour mobility policy objectives, and aim to enhance APTC’s value for money.
- 2.4 The establishment of the PLS will require APTC to be sufficiently flexible to provide training support for other Pacific islanders, including former graduates and those who may not have been an APTC student. This would most likely occur on a fee-for-service basis. APTC will also identify opportunities to facilitate first mover advantage for Kiribati, Nauru and Tuvalu for labour mobility pathways.
- 2.5 The design retains the APTC acronym, reflecting strong brand recognition across the Pacific, but the investment name will change from Australia Pacific Technical College to Australia Pacific Training Coalition. The name change reflects a reduced emphasis on APTC as a separate training institution and more on it working collaboratively with Pacific governments, Pacific TVET systems and institutions, and industries/enterprises to facilitate TVET reform.

3. APTC3 OBJECTIVES AND SCOPE

3.1 APTC3’s goal is:

‘A more skilled, inclusive and productive workforce enhances Pacific prosperity’.

3.2 APTC3’s supporting purpose is:

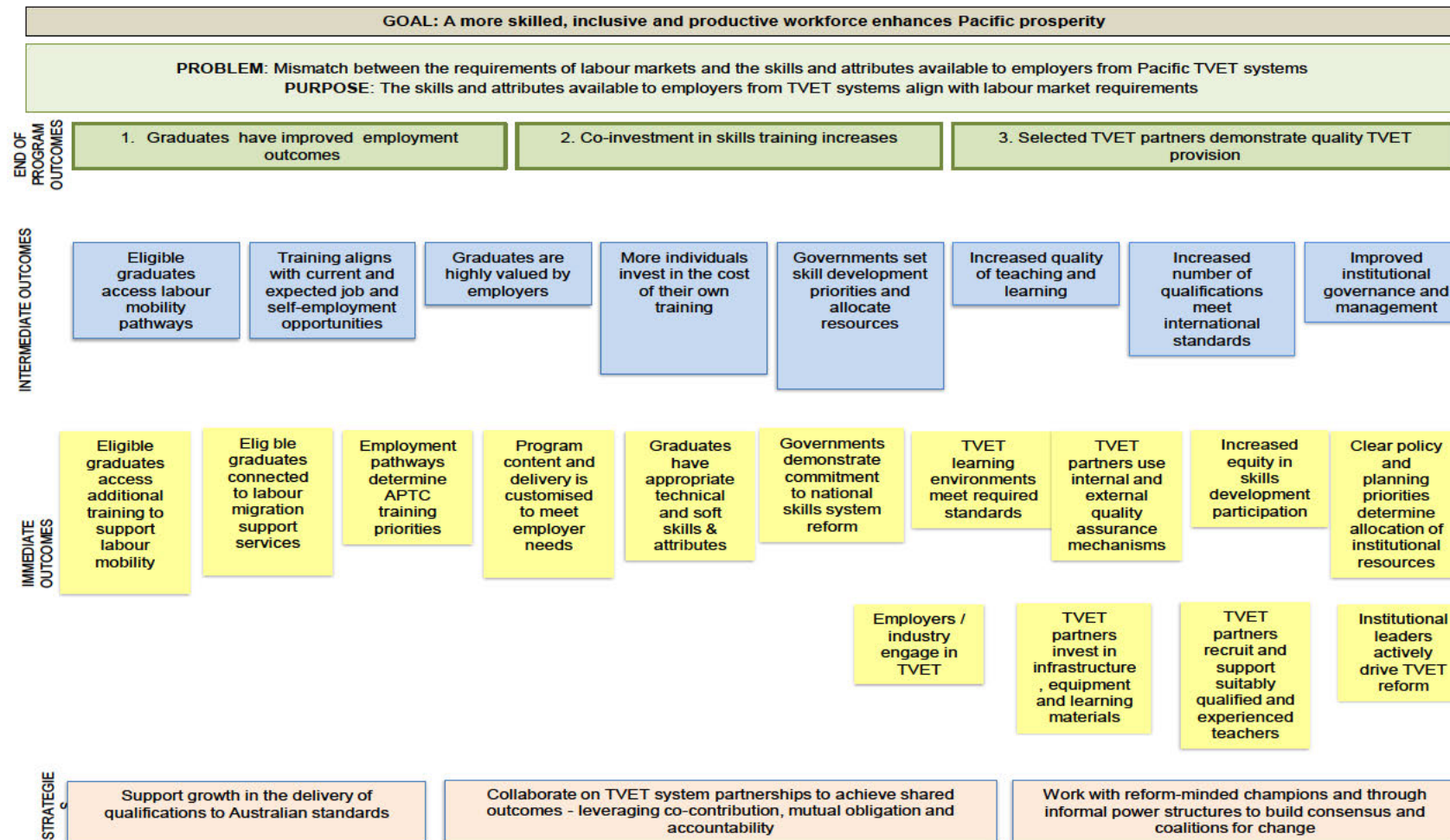
‘The skills and attributes available to employers from TVET systems align with labour market requirements’.

3.3 This goal and purpose will in turn be supported by the achievement of three end-of-program outcomes (EOPOs):

- (a) Graduates have improved employment outcomes
- (b) Co-investment in skills training increases
- (c) Selected TVET partners demonstrate quality TVET provision.

- 3.4 APTC3's program logic (at 2017) is summarised in Figure 1.
- 3.5 APTC3 will operate in Fiji, Kiribati, Nauru, PNG, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu (nine countries in total). Five states (Cook Islands, Federated States of Micronesia, Niue, Palau and Republic of the Marshall Islands) will have access to APTC training places, either fully or partly subsidised, but APTC will not conduct in-country marketing activities or seek to identify the local demand for skills.

Figure 1: APTC3 program logic (Theory of Change)



4. APTC3 ENGAGEMENT PRINCIPLES

- 4.1 The following Engagement Principles will guide the Contractor's approach to APTC3:
- (a) APTC's operations are increasingly 'embedded' in Pacific TVET systems, including:
 - (i) movement away from enclave delivery
 - (ii) greater alignment with Pacific governments' priorities for national economic growth and skills development
 - (iii) greater responsiveness and delegation to country level APTC offices
 - (iv) avoidance of competition with national TVET public and private providers
 - (v) emphasis on working collaboratively with Pacific governments; Pacific TVET systems and institutions; and industries/enterprises to facilitate TVET reform.
 - (b) an emphasis on quality TVET through ensuring the delivery of Australian qualifications to more than 1,200 Pacific graduates per annum
 - (c) APTC programming trials, tests, learns and adapts to changing contexts, based on a thinking and working politically (TWP) approach.
 - (d) APTC's graduate supply ensures a net skill gain for Pacific Island Countries
 - (e) APTC is responsive to the needs of women, people living with disabilities and to other social equality priorities
 - (f) Australia's regional and bilateral skills development efforts are harmonised
 - (g) APTC's brand for quality is continued.

5. APTC3 GOVERNANCE AND MANAGEMENT

The APTC Board

- 5.1 The APTC Board will provide advice to DFAT and to the Contractor on the strategic direction and performance of the APTC. The APTC Board is advisory only. The Board cannot allocate funds or administer programs of support. Details are articulated in the APTC Board Charter available on the APTC website. No immediate change to the role or composition of the Board is envisaged.

Joint Steering Committees

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- 5.2 Joint Steering Committees (JSCs) will operate at the national level (one for each of the five APTC3 countries). JSCs will increase effective coordination of TVET systems strengthening support at the country level, including to support the work of any coalitions for TVET reform (see **Clause 8.1** of this **Schedule 1**). JMCs will be informed of (and endorse where appropriate) co-contributions for activities within their country. There is no strict formula for membership, but JSCs will ideally be chaired by a senior host country official and include an appropriate combination of representatives from the DFAT Post, relevant national government departments, industry/ enterprises, local TVET institutions, APTC at the country level, and bilateral TVET programs..
- 5.3 APTC3 will support effective coordinating mechanisms where they already exist at a country level. The role of the JMCs may be subsumed into these bodies. APTC3 will facilitate the establishment of, and support, JSCs where coordinating mechanisms do not exist.

Joint Management Committees

- 5.4 The Joint Management Committees (JMCs) will have oversight of the implementation of agreements between APTC and key partner institutions (see **Clause 8.1(d) of this Schedule 1** for details on key partners). JMCs are the primary formal mechanism for managing the TVET service delivery agreements that the Contractor will have with the individual key partners to support training delivery and reform efforts in each country. JMCs are operationally focused at the institutional level.
- 5.5 The JMC will comprise representatives from APTC at country level and the partner institution. JMC parties may seek third-party private, donor or bi-lateral investment funding which may complement or replace the resources being contributed to the partnership by the APTC and/or partner institution.
- 5.6 The JMC can consider and propose changes to partnership arrangements, within the existing budget.
- 5.7 The JMC is intended to allow reasonable discussion and consultation throughout the implementation, delivery and assessment of programs, industry engagement and all associated expenditure so that either party does not act unilaterally.
- 5.8 The Contractor will provide secretariat services to the JMC and JSC where appropriate.

DFAT

- 5.9 DFAT management of the APTC3 Contract will be led from Canberra with liaison and follow-up at country level as required. DFAT's primary responsibilities are:
- (a) oversight of APTC and provision of advice to DFAT (Posts and management) and other Commonwealth agencies;

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- (b) endorsing Annual Training Profiles and the Annual Plan/Report;
- (c) monitoring, reviewing and evaluating the performance of the Contractor and APTC, including but not limited to managing an independent review group;
- (d) coordination with the forthcoming Pacific Labour Facility; and
- (e) advocating the role and focus of the APTC with Australian and Pacific government agencies, donors and regional and Australian industry bodies.

Pacific Island Countries

5.10 Pacific Island government partners, including their key TVET institutions, are key to the achievement of APTC3's EOPOs. DFAT has/intends to have APTC specific Memorandum of Understandings (MoUs) with each of the Pacific Islands countries APTC is operating in. The expected responsibilities of Pacific Island government partners include:

- (a) participating in Joint Steering Committees
- (b) providing input to / support for the development of activity proposals for funding through the APTC TVET systems strengthening fund (see **Clause 8** of this **Schedule 1** below);
- (c) ensuring coordination of different Government agency inputs into the implementation of jointly agreed APTC supported TVET system strengthening initiatives;
- (d) actively engaging with industry and their representative bodies to ensure TVET systems are driven by labour market, including government, needs;
- (e) supporting donor coordination efforts at the country level;
- (f) providing information on government policies, priorities, budget allocations and expenditures on TVET, in line with the principle of mutual obligations;
- (g) providing the required co-investment (either in cash and/or kind) to achieve mutually agreed TVET system strengthening objectives; and
- (h) facilitating resolution of institutional bottlenecks that may be impacting negatively on the effective implementation of APTC supported activities.

6. SERVICES TO BE PROVIDED BY THE CONTRACTOR

- 6.1 The Contractor will provide the following Goods and/or Services in accordance with the Terms and Conditions of this Contract and in DFAT accordance with approved plans.
- 6.2 The Contractor's core services are planning and delivery of training (in partnership with local institutions and partners and in a way that maximises co-contribution and fee-for-service use), creating and managing partnerships for training and/or TVET reform, supporting TVET systems strengthening and reform, including managing a flexible fund for reform activities, and supporting and managing all students undertaking APTC3 training courses.
- 6.3 In providing all Services, the Contractor will ensure the principles in **Clause 4** of this **Schedule 1** are adhered to. All Services will be complementary and align with the Forthcoming Pacific Labour Facility, maximise gender equality and social inclusion efforts (in accordance with GESI strategy, see **Clause 22.1 (c) (vi)** of this **Schedule 1**).
- 6.4 The Contractor will guide the evolution of APTC from an Australian college directly delivering Australian qualifications to an enabling organisation that assists Pacific partners to provide their own internationally recognised training and achieve quality improvements in their institutions and systems.
- 6.5 The Contractor will also provide marketing and promotional services to APTC and monitoring, evaluation and learning.

7. ANNUAL TRAINING PROFILES

- 7.1 The Contractor will:
- (a) prepare an Annual Training Profile based on: (i) analysis of Pacific industry and government demand; (ii) identified labour mobility potential; and (iii) local TVET system institutional strengthening needs and reform priorities. The profile will ensure APTC service delivery is labour market demand-based and able to flexibly respond to emerging opportunities;
 - (b) review APTC training courses at least annually, based on systematic labour market intelligence gathering and whole of APTC analysis to ensure course delivery (content and qualifications) clearly reflects national and regional training priorities for enhanced employment and productivity and meets requirements for labour mobility;
 - (c) undertake course planning sufficiently in advance of the training so that new courses/schools can be customised, equipment purchased and transported, and staffing arranged. The Contractor will allow sufficient lead-time for the courses to be promoted, applicants assessed, fee waivers and access bursaries awarded and awardees mobilised before the training period commences; and

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- (d) identify and detail enrolment and graduate targets in the Annual Training Profile. DFAT approval of the Annual Training Profile is required prior to implementation. It is anticipated that during the life of APTC3, around 1,200 graduates per year will be supported (with qualifications that meet Australian standards), either directly by APTC or through local TVET institutions delivering APTC supported training.

8. PARTNERSHIP MANAGEMENT AND SUPPORT TO COALITIONS FOR TVET REFORM

8.1 The Contractor will:

- (a) undertake ongoing political-economy analysis and apply the principles of thinking and working politically (TWP) in order to help ensure that APTC3 support to TVET systems strengthening initiatives is relevant, effective and supports sustainability of benefits (see Annex 9 of the IDD);
- (b) develop partnerships with Australian, New Zealand and Pacific Island industry associations, firms, private training providers and government training institutions to support delivery of Australian qualifications in a range of locations across the Pacific Islands Forum countries to meet prioritised skill deficient areas in the Pacific region;
- (c) in developing the above partnerships, foster the establishment of industry advisory mechanisms for APTC, as the Contractor sees necessary, with broad-based representation with a purpose to ensure APTC supported training provides skills and competencies relevant to industry and government employer needs;
- (d) establish (or continue to support) a structured partnership with one institution in each of the five countries with an APTC office (key partner institution). This does not preclude other partnerships, however, these five countries are the initial priority. The focus is on developing long-term partnerships with key high performing, higher quality institutions with a demonstrated commitment to TVET reform, so that any financial commitment from APTC represents a sound and compounding investment over time.
- (e) establish and maintain appropriate contractual arrangements with industry and public/private sector institution training partners (not necessarily a key national provider referred to in **Clause 8.1 (d)** of this **Schedule 1**) for the implementation of APTC supported courses and TVET systems strengthening initiatives;
- (f) identify opportunities to support coalitions (may be, but not limited to, an informal group of individuals, industry leaders, or a more formal coalition of agencies, peak industry bodies, private sector and government that may be champions to implementing reform) for TVET reform at both country and regional levels, develop strategies / plans to provide effective support

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where opportunities exist, and implement them. See 4.3 of the IDD for further details.

- 8.2 To capitalise on TVET systems strengthening reform and in supporting the above partnerships, coalitions and arrangements, the Contractor will be proactive and opportunistic in managing a Fund (approximately AUD13.5million) that allows the Contractor to capitalise on opportunities as they arise. This is a flexible fund and the Contractor will manage it in accordance with the processes outlines in the Operational Manual. Allocation of the Fund resources will be based on value for money, impact and equity of Funds across the APTC eligible countries. The Contractor will manage the application, allocation and acquittal process, including monitoring and evaluation of results in partnership with the funding partner. Use of the Funds for single activities over AUD200,000 and repeat funding to an organisation (regardless of value) will require a two-page Business Case from the Contractor for DFAT approval.

9. TRAINING DELIVERY

9.1 The Contractor will:

- (a) Increasingly seek to deliver joint training with local institutional partners (consistent with 2.3 (a));
- (b) ensure flexible delivery of training (including course and curricula design, course delivery, assessment and certification), with the support of industry and government, through a network of existing APTC facilities or facilities used jointly with institutional partners or industry;
- (c) provide work-ready graduates relevant to the needs of national and regional labour markets with Australian Qualifications Framework (AQF) Vocational Education and Training qualifications;
- (d) conduct Language, Literacy and Numeracy (LLN) Assessments (or their equivalent) and design or tailor (as required) and deliver a cost effective bridging program for potential Small Island States students who meet technical skill requirements but fall short of LLN requirements. In addition, the Contractor will provide all enrolled students with concurrent support for LLN needs;
- (e) establish or maintain facilities for training, student accommodation, office space and staff facilities (increasingly in partnership with local institutions) which:
 - (i) meet standards required under the AQF;
 - (ii) are considerate of gender issues; and
 - (iii) where required, ensure physical access for students with disabilities

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- (f) identify and source training resource needs; procure, lease, install and maintain required plant and equipment; and select and procure library resources as required;
- (g) ensure high quality trainers and related support staff are engaged, supported and retained, though:
 - (i) establishing staff recruitment and HRM policies and procedures that are efficient and effective, align with equal employment opportunity principles and seek to maintain a gender balance for teaching and support staff for all roles;
 - (ii) developing procedures for the mobilisation of both long-term and short-term (expatriate) staff to APTC;
 - (iii) establishing and maintaining a team with appropriate skills and experience; and,
 - (iv) managing its staffing resources through a cost-effective mix of expatriate and local staff, and continuing to seek opportunities to increase the number (and level) of local staff within APTC's management structure.
- (h) develop and implement a plan (including on-line applications) for the APTC Campus at Port Moresby Training College (POMTECH) to become a centre for teacher training, initially in PNG, but progressively servicing other countries; and,
- (i) Investigate and implement (where advantageous and feasible) use of on-line and blended learning methods.

10. STUDENT SUPPORT AND MANAGEMENT

10.1 The Contractor will:

- (a) make provision for any Stage 2 Extension students who require ongoing assistance from APTC;
- (b) develop and implement systems that maximise the opportunity for students from all target countries to access and successfully complete APTC programs as 'work ready' graduates;
- (c) provide and maintain a centralised student database;
- (d) recruit students through appropriate marketing and promotion of courses;
- (e) assess and recognise prior learning and current competency standards of students;
- (f) provide a suite of student services, including, but not limited to: course information and advice for students, student welfare services such as orientation, teacher consultations, learning support, counselling and organisation of vocational placements when and where required;

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- (g) develop (or update), a Student Pastoral Care Plan which will ensure students are supported in their learning and that any emerging issues (language proficiency related, personal or interpersonal) are identified immediately and handled appropriately. APTC staff will be trained to identify and provide an initial gender sensitive response to students requiring pastoral care. A formal escalation process should be included to ensure access to a trained counsellor, as required;
- (h) undertake assessment and integrated training of LLN skills for students, as required;
- (i) actively promote access for students from Kiribati, Nauru and Tuvalu through:
 - (i) regular recruitment activities tailored to the local labour market including marketing, student recruitment, promotion of tuition fee waiver and access bursary availability, applicant skills assessment, and facilitation of applications by prospective students; and
 - (ii) application assessment and selection processes sensitive to the special circumstances of the applicants from these countries.
- (j) ensure subsidised places are available for prospective applicants from the Cook Is, Niue, FSM, RMI and Palau commensurate with past demand;
- (k) maximise opportunities for work experience and work placements for students;
- (l) as necessary, work with DFAT and Pacific governments to resolve any legal, regulation and visa issues for study and work placements by APTC students;
- (m) manage APTC fee waivers and access bursaries to maximise opportunities for students from PIF countries (within the APTC sphere of activity) to access and successfully complete APTC qualifications with a particular focus on redressing gender, disability and access barriers. In doing so, the Contractor will:
 - (i) market and promote and disseminate fee waiver and access bursary policies, allocation criteria, application processes, etc.;
 - (ii) assess, rank and select fee waiver and access bursary applicants;
 - (iii) assist with awardee mobilisation (including visas) and pre-departure briefing;
 - (iv) provide awardee orientation and accommodation arrangements in the campus countries;
 - (v) pay award stipend and allowances;

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- (vi) make award offers and approval of award variations;
 - (vii) maintain awardee data and reporting systems;
 - (viii) organise student travel during training, including the payment of all associated costs such as airport and departure taxes; and
 - (ix) facilitate airport transfers on transit, arrival and departure.
- (n) support students near the end of their training and after their training, that includes generic and country-specific tailored topics such as:
- (i) Curriculum Vitae development
 - (ii) how to identify employment opportunities;
 - (iii) applying for work (domestically and overseas);
 - (iv) strategies to introduce new skills into the workplace; interview skills; and where to access resources for starting a new business etc.; and
 - (v) how to prepare a business proposal.
- (o) support an APTC Alumni Network to promote the program's objectives in key areas. The Alumni Network will contribute to the sustainability of linkages between Australia and APTC graduates in the Pacific and:
- (i) provide a forum for active discussion and exchange of ideas/expertise relevant to the achievement of the APTC objectives;
 - (ii) enable alumni to exchange knowledge and skills;
 - (iii) facilitate the provision of contact information for Monitoring, Evaluation and Learning (MEL) purposes; and
 - (iv) provide access to alumni for operational purposes (e.g. for assisting with pre-departure briefings, mentoring to new students and graduates, access to labour market intelligence, access to information on employment outcomes, etc.);
- (p) develop and maintain an alumni database of all APTC graduates with relevant contact, employment and other details for each graduate;
- (q) establish and manage an APTC website and social media presence which can be used (as appropriate) as a forum for alumni networking activities (e.g. notice boards, email groups, chat rooms, and/or notice of forthcoming alumni events); and
- (r) provide links on the website to publicly available information from credible official sources setting out advice and guidance on skilled entry visas and immigration. APTC will not provide independent immigration advice.

11. LABOUR MARKET ANALYSIS AND LABOUR MOBILITY**11.1 The Contractor will:**

- (a) work with the Forthcoming Pacific Labour Facility to establish respective roles and responsibilities;
- (b) identify sources of market labour information, through for example industry consultations and networks. The Contractor will systematically collect this data and analyse it to inform the Annual Training Profile and ensure course relevance to industry demand domestically, regionally and beyond;
- (c) gather adequate information on middle-level skill requirements (in the trades, technician and equivalent level service delivery occupations) of the formal economic sectors in each APTC3 country, and in the metropolitan countries outside the region that APTC graduates are likely to find employment in, notably Australia and New Zealand;
- (d) establish two tracks for APTC students: the domestic (home) track and the labour mobility (abroad) track (see the IDD, Section 3.3 and Annex 4 for guidance);
- (e) ensure the APTC training profile respond flexibly to the changing needs to the domestic and labour mobility tracks;
- (f) in addition to core training, provide appropriate support for soft skills and knowledge for labour mobility track students to help them prepare for working abroad, such as additional English language training required for migration purposes; and aspects of pre-departure training; and
- (g) Explore other ways to engage with Australian and New Zealand employers through APTC, including but not limited, to invite interested Australian and New Zealand employers to visit the APTC campuses to see the quality of training infrastructure, meet instructors and students and to experience the quality of the training provided.

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- 11.2 The forthcoming Pacific Labour Facility will provide current information about different temporary labour mobility pathway options. These include visa options offering short-term work experience through seasonal work programs; medium-term employment options based on work in specific locations in Australia; and more general temporary skilled work options.

12. CO-INVESTMENT AND FEE FOR SERVICE

- 12.1 A Fee-for-Service activity is defined as ‘an activity undertaken by APTC which relates to training or training support services that are partly or fully funded by external parties’. Co-investment may be financial payments, in-kind contribution or financial contribution to reform efforts through a partners own financial systems.
- 12.2 The Contractor will create incentives and marketing that attract co-investment and fee for services. The Contractor will operate in a manner that reduces the image and situation (in 2016-17, 75% of students were receiving fee waivers) of APTC being a scholarship college and will outline in its Annual Plans how this will occur.
- 12.3 The Contractor will:
- (a) approach marketing, sourcing, costing, pricing, bidding, implementation and reporting of all Fee-for-Service activities in accordance with the most recent Fee-for-Service policy agreed by DFAT;
 - (b) pursue fee-for-service activities as a means of promoting co-investment and expanding the scope of benefits that APTC3 can provide;
 - (c) retain fee for service income in a central account and apply it to support DFAT approved non-recurrent costs such as additional funding for awards, upgrading of facilities/equipment, and / or increased allocations to the TVET systems strengthening fund (as discussed with DFAT);
 - (d) continuously develop, implement and monitor incentives for employers, governments and individuals to co-invest in training
 - (e) hold the commercial contract for Fee-for-Service activity and carry the associated risks;
 - (f) seek to meet, or exceed, targets set in the design documents for revenue; and
 - (g) report on Fee-for-Service activities and income in Quarterly Financial Reports, and Six-Monthly and Annual Reports.

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- 12.4 All revenue received, including from tuition fees and fees for service arrangements or any other source including but not limited to national TVET providers, industry, other development partners and individuals, for APTC, will be reinvested into APTC operations.

13. MARKETING AND REPUTATION

13.1 The Contractor will:

- (a) design and deliver a targeted, multi-level communication and marketing strategy that maximises the exposure of APTC programs to industry and prospective students and builds brand awareness and reputation across the Pacific region. The Communications Plan will ensure effective knowledge sharing, allow lessons to be shared, and encourage support for quality TVET more broadly across the Pacific. The Marketing Strategy will, among other things, include activities which promote awareness and understanding of:
 - (i) the benefits of high quality TVET to individuals, industry / enterprises and the overall economy;
 - (ii) APTC3's objectives and new approach, including its additional emphasis on co-investment, TVET systems strengthening and promoting labour mobility opportunities (in partnership with the forthcoming Pacific Labour Facility);
 - (iii) APTC3's policies on fee waivers and access bursaries;
 - (iv) APTC3's gender and social inclusion strategy; and
 - (v) access to APTC3 training opportunities for targeted Small Island States (SIS).

14. MONITORING, EVALUATION AND LEARNING

- 14.1 In consultation with DFAT and other key partners, the Contractor will establish an overarching Monitoring, Evaluation and Learning Framework (MELF) and implementation plan in line with the guidance contained in the IDD (Section 4.5 and Annex 9), that is able to:
- (a) Provide accountability for the investment in APTC3
 - (b) Provide the information required to inform APTC's decision-making at the operational and strategic level, including meeting the requirements of the Australian Skills Quality Authority (ASQA) requirements and the needs of the labour market
 - (c) Provide information on the outcomes of training delivery, including employment, income and labour mobility outcomes of graduates
 - (d) Help APTC3 learn and adapt from programming trials to strengthen selected TVET partners

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- (e) Provide evidence of instances of TVET systems strengthening in relation to:
- (i) institutional strengthening of selected TVET partners; and,
 - (ii) national and / or regional system reform.
- 14.2 The MELF will be reviewed at least annually by the Contractor, and be adapted as required by changes in context, as well as in response to any assessment findings.
- 14.3 The Contractor's MELF will be lean, efficient and fit-for-purpose, align with DFAT and international standards, inclusive, responsive and conducted in partnership; support national processes and involving partners in analysis and findings. The MELF will build on the Stage 2Ext M&E Framework and systems already in place, including APTC's Educational Management Information System (EMIS), Financial Management Information System (FMIS) and the systems required to meet ASQA audit requirements.
- 14.4 The Contractor will incorporate lessons learned during APTC Stage 2 and recommendations from the independent review of APTC while ensuring its delivered to meet ASQA and national regulatory requirements.
- 14.5 The Contractor will ensure the MELF incorporates an increased focus on Value for Money (VfM) analysis. VfM will be an important aspect of reporting and will be measured primarily within the framework of a periodic cost-benefit analysis (CBA), taking into account the broad range of projected costs and benefits to all stakeholders affected by the investment in APTC.
- 14.6 The Contractor will also ensure a greater focus in the MELF on strengthening of selected TVET partners and TVET systems reform. The MELF will incorporate learning and adaptation from pilots/trials to strengthen selected TVET partners to inform national and regional TVET system reform initiatives.
- 14.7 The Contractor will engage specialists to provide high-quality evaluation (data collection design, analysis and reporting) capacity in the following areas:
- (i) using tracer surveys to provide information on the employment outcomes of graduates by qualification,
 - (ii) identifying labour mobility opportunities based on graduate tracer survey results
 - (iii) conducting ongoing Value for Money / Cost Benefit analysis
 - (iv) evaluating the TVET strengthening function.

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- 14.8 The Contractor will further develop and update, as necessary, the program-level theory of change.
- 14.9 The Contractor will conduct ongoing M&E of the program to ensure that progress can be tracked and results evaluated, including the collection and analysis of information to help answer the following key evaluation questions (KEQs):
- (i) To what extent and how have (i) APTC and (ii) selected TVET partner graduate employment outcomes improved (EOPO 1)
 - (ii) To what extent and how has there been increased co-investment in skills training offered by (i) APTC and (ii) selected TVET partner? (EOPO 2)
 - (iii) To what extent and how have selected TVET partners demonstrated quality TVET provision? (EOPO 3)
 - (iv) To what extent and how has the APTC contributed to the GOAL: a more skilled, competitive and productive workforce enhances Pacific prosperity?
 - (v) How economic, efficient, effective and ethical has the APTC investment been?
 - (vi) To what extent and how has the APTC promoted gender equality and social inclusion in access to training and empowerment?
- 14.10 The Contractor will ensure six-monthly and annual reflection and review processes to promote adaptive learning and decision making processes.
- 14.11 The Contractor will establish, maintain and update as required, an APTC3 Management Information System (MIS) which builds on existing APTC systems and can generate timely and useful reports for DFAT, the Board, Joint Management / Steering Committees, and other agencies as required.
- 14.12 The Contractor will develop and use knowledge products and high quality communication materials.
- 14.13 The Contractor will ensure staff members have MEL skills necessary to design and implement the Monitoring and Evaluation systems and processes, including design of MEL activities, MEL processes and MEL tools.
- 14.14 The Contractor will define and implement appropriate staff incentive regimes to support effective MEL and its use in decision-making.
- 14.15 The Contractor will collaborate with all external evaluation/review and research processes as required.
- 14.16 The Contractor will routinely engage with DFAT and other key stakeholders / partners to review and discuss performance information and risks.

15. TRANSITION PHASE

- 15.1 There will be a transition phase of three months (1 April to 30 June 2018). During this phase, the Contractor will work with DFAT and the previous APTC 2 managing contractor (also contracted by DFAT to deliver APTC 2 during this Transition Phase) to ensure a smooth transition of APTC services.
- 15.2 During the Transition Phase, the Contractor will:
- (a) ensure all process, systems and people are in place to deliver the approved 2018 Annual Training Profile and Annual Plan from 1 July 2018 onwards (the Annual Training Profile will be prepared by the APTC2 managing contractor and approved by DFAT prior to 1 April 2018, indicative profile is at **Annex 3** to this **Schedule 1**).
 - (b) ensure smooth continuity of service delivery, including, but not limited to:
 - (i) Offer new employment contract for six months to all APTC 2 staff listed in **Annex 1** to this **Schedule 1**, recruit personnel including to positions due to be continued but are/become vacant.
 - (ii) Continue existing partnerships and leases as specified in **Annex 2** of this **Schedule 1**; and,
 - (iii) Taking possession of all required assets from APTC2 (approximately 421 assets to be transferred).

16. STRATEGIC AND ANNUAL PLANNING

- 16.1 The Contractor will:
- (a) provide strategic support to DFAT in DFAT's lead role in policy dialogue with Pacific Island government partners and other strategic stakeholders;
 - (b) support planning for and provide strategic analysis and advice to the Board, the Joint Management Committees and Joint Steering Committees as appropriate;
 - (c) strategically manage and implement program activities in accordance with APTC3 engagement principles to support the program's goal and purpose, and achieve the EOPOs;
 - (d) implement systems to facilitate and deliver whole-of-program analysis, information-sharing, and policy dialogue in a manner that contributes to the program's goal and EOPOs;
 - (e) collaborate with other DFAT and donor programs to ensure maximum efficiency and effectiveness;
 - (f) develop an Annual Plan for the program each year in consultation with DFAT and other relevant stakeholders. The Annual Plan must align with both the GOA financial year and the training calendar year. Contents of the Annual Plan are profiled in **Clause 22.1** of this **Schedule 1**;

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- (g) Ensure collaborative efforts with other DFAT programs that align with APTC3 objectives; and
- (h) update the Annual Plan and present it to DFAT and the Board on a six-monthly basis, along with a six monthly progress report.

17. RISK MANAGEMENT AND SAFEGUARDS

- 17.1 The Contractor will comply with all DFAT policies and reporting requirements relating to management of risks and safeguards.
- 17.2 The Contractor will:
 - (a) undertake ongoing environmental scanning to proactively identify emerging risks to the extent possible;
 - (b) prepare and regularly update an APTC3 Risk Management Plan;
 - (c) implement risk mitigation actions in a timely manner;
 - (d) keep DFAT regularly informed of any risk escalation or emerging risks; and
 - (e) request any support that may be required from DFAT or other GOA agencies to help manage / mitigate these risks.

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18. OFFICE OPERATIONS

- 18.1 The Contractor will maintain all required APTC office and training infrastructure including, but not limited to, facilities in Fiji, Vanuatu, Papua New Guinea, Samoa and Solomon Islands.
- 18.2 The Contractor will continue the Regional APTC Office in Suva, Fiji. The Regional Office provides oversight and coordination of APTC activities and engagement and manages APTC engagement in small countries (Tuvalu, Tonga and Nauru) that do not have an APTC country office. However, during the term of the Contract, the Contractor may propose other management structures for the role (and location) of the regional office, with agreement from DFAT, if advantageous to APTC.
- 18.3 The Contractor will provide all other corporate functions as necessary including, but not limited to: record keeping, human resources, quality assurance, child protection, anticorruption and fraud compliance, information and knowledge management, anti-discrimination, bullying and harassment policies, WHS, security and financial management.
- 18.4 The Contractor must ensure that all Personnel undergo ongoing formal training in the systems and procedures set out in the Operations Manual, and ensure that staff comply with the Operations Manual (See **Clause 22.1** of this **Schedule 1**).

19. MANAGEMENT INFORMATION SERVICES (MIS)

- 19.1 The MIS must comply with the Australian Government Protective Security Policy Framework (PSPF) and Information Security Manual (ISM). DFAT will reference DFAT IT security policies (based on the PSPF and ISM) in its assessment of the Management Information System. DFAT requires the system to meet the security standards required for handling of information up to the level of Sensitive: Personal/For Official Use Only. <http://www.dsd.gov.au/infosec/ism/index.htm>.
- 19.2 The Contractor will develop and maintain a dedicated website, on behalf of DFAT, which must comply with the Web Content Accessibility Guidelines (WCAG) Version 2.0, Level AA, in accordance with Clause 71 of Part A. The Contractor will ensure all policies and procedures are available on the APTC intranet (and internet where appropriate);
- 19.3 The Contractor will establish and maintain an information and communication technologies system, with necessary hardware and software to allow for effective communication between stakeholders. This includes a portal on the website that allows DFAT access to dashboard reporting and key documents.
- 19.4 The Contractor will manage all information requirements of the APTC, including but not limited to:
- (a) partnership arrangements, contracts and leases;

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- (b) course data - including locations of where the courses are being delivered and whether they are through an industry/local institution arrangement;
- (c) student data – student details, recognition of prior learning, enrolments, results, completions, applications received, assessment data, waiting lists, and disaggregated by gender and country of origin;
- (d) award data (fee waiver and access bursaries);
- (e) financial data - including expenditure, income received and expenses by course/school and total expenditure by country;
- (f) asset data - by office and course;
- (g) human resource data – staff details (broken down by staff type, gender, country of origin) and classes taught; and
- (h) data relevant to ongoing review, evaluation and learning of APTC3 costs and benefits, including with respect to graduate employment outcomes, labour mobility, and TVET institutional strengthening achievements.

20. FINANCIAL MANAGEMENT

20.1 The Contractor is responsible for the financial management and monitoring of all Contract funds. The Contractor must establish a financial management system and procedures (to be detailed in the Operations Manual) required to enable these functions to be performed, including, at a minimum:

- (a) financial acquittal procedures for all activities that enable reporting in a format and at a time acceptable to DFAT;
- (b) clear responsibilities of all parties in relation to financial management;
- (c) mechanisms and procedures to ensure the timely and efficient provision of funds to partners;
- (d) a program of financial and compliance audits for APTC;
- (e) establish systems for the collection of student tuition fees and any other fees in accordance with the APTC Fee Policy;
- (f) fraud control procedures, including: a fraud control strategy, ensuring all personnel are aware of fraud reporting procedures and are actively encouraged to report suspected fraud through the appropriate channels, due diligence checks on downstream partners, providing fraud awareness training for all personnel;
- (g) an independent financial audit every two years and otherwise where DFAT has reasonable concerns regarding the Contractor's financial management systems; and
- (h) provision of briefings, information and training for all relevant stakeholders in the application of the Contractor's financial management procedures and accounting, reporting and audit requirements.

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- 20.2 Direct training delivery costs are expected to decrease over time and the Contractor will address this in the Annual Planning process.
- 20.3 The Contractor will provide mechanisms to receive and manage financial contributions and track in-kind contributions from other parties (both within and external to DFAT) in accordance with this Contract. Other revenue including, but not limited to, sale of assets, will be managed by the Contractor in accordance with the Operational Manual. It is expected that revenue to APTC will exceed \$1million annually.

21. PERSONNEL

- 21.1 The Contractor will provide appropriate gender balanced resources to ensure effective implementation of the APTC, including but not limited to a Contractor Representative to be the Contractor's senior representative and principal interlocutor with DFAT. In addition to a gender-balanced team, the Contractor will strive to localise positions where feasible during the term of APTC3.
- 21.2 The Contractor will ensure that:
- (a) All positions have up-to-date TORs or position descriptions;
 - (b) All personnel nominated and engaged by the Contractor are selected under fair and transparent recruitment processes;
 - (c) All personnel nominated and engaged by the Contractor are suitably qualified and experienced to deliver on their TORs or position descriptions, and possess:
 - (i) cultural awareness and sensitivity; and
 - (ii) a clear understanding and acceptance of their entitlements.
 - (d) All personnel behave ethically and appropriately at all times including ensuring that all personnel are briefed on and comply with DFAT's policies on cross-cutting issues including gender, disability, fraud and anti-corruption, child protection and environmental issues;
 - (e) All personnel are adequately performance managed, including being assigned individually tailored Key Performance Indicators, having appropriate probation periods and being subject to appropriate remedies to performance issues;
 - (f) Performance assessments on all long-term technical personnel (at a minimum) are conducted at least annually in consultation with DFAT.

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- 21.3 The Contractor will conduct regular reviews of the APTC organisational structure to assess the extent to which it is meeting the needs of the program and discuss proposed changes with DFAT.
- 21.4 The Contractor will ensure capacity building of staff, local staff in particular, is sufficiently resourced and reflected in professional development plans.
- 21.5 The Contractor will ensure a culture of reflection and continuous learning.
- 21.6 The Managing Contract shall provide the following Specified Personnel in accordance with **Clause 37** (Specified Personnel) in Part 3 of the Standard Contract Conditions.

Table 1: Specified Personnel

Position	Name	ARF Classification
<i>TO BE DETERMINED DURING CONTRACT NEGOTIATIONS WITH THE PREFERRED TENDERER</i>		

22. REPORTS

- 22.1 The Contractor will provide DFAT with the following reports by the date indicated:
- (a) **A Transition Phase Work plan** (covering a period of at least three (3) months from 1 April to 30 June 2018), to be submitted within two weeks of contract start date. This plan should include, but not be limited to:
- (i) an update on staff recruitment and mobilisation, mobilisation of other resources, and preliminary activities undertaken / initiated;
 - (ii) a forward plan outlining priority activities to ensure smooth transition and the resource requirements; and
 - (iii) any other relevant matters.
- (b) **Operations Manual (OM):** by 30 June 2018. The OM must be based on best practice, kept up to date, and include but not be limited to internal procedures for management of:
- (i) Human resources;
 - (ii) Finances;
 - (iii) Procurement;

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- (iv) Logistics and travel;
 - (v) WHS, including emergencies and natural disaster response;
 - (vi) Asset management (physical facilities and equipment), including a Handover Plan in accordance with Clause XX of the Standard Contract Conditions;
 - (vii) Record keeping;
 - (viii) Vehicle policy;
 - (ix) Course planning and training delivery;
 - (x) Tuition fee and access bursary awards;
 - (xi) The TVET systems strengthening fund;
 - (xii) Monitoring, evaluation and learning;
 - (xiii) Internal and external communications (Communications and Marketing Strategy, see **Clause 13.1 (a) of this Schedule 1**);
 - (xiv) Information Technology (including the overall Management Information System);
 - (xv) Risk and safeguards;
 - (xvi) A Fee for Services Policy (see **Clause 12.2 (a) of this Schedule 1**);
 - (xvii) Compliance with relevant GOA policies on Child Protection, Gender Equity, Disability Inclusiveness, etc;
 - (xviii) Any other relevant matters.
- (c) **Annual Plans** covering 1 January – 31 December each year, updated six-monthly, to be submitted by 1 December each year. The Annual Plans must include, but not be limited to:
- (i) an overview of strategic direction for the next calendar year, which takes into account: changes in, and influence of, the broader policy and institutional context/environment on program implementation; the status of arrangements and partnerships with key stakeholders; and, lessons learned from, and a review of, program implementation to date;
 - (ii) the Contractor's plan for the performance of the Services for the next calendar year with an outline of planned activities that will contribute to each EOPO. The plan must also address program learning and innovation; demonstrate that administrative costs are

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minimised; that management processes (including procurement procedures) are designed to maximise cost effectiveness; that commercial risks are managed; and that funds are allocated based on evidence of results to ensure the greatest impact;

- (iii) a statement of APTC3 revenue and expenditure to date, and also forward revenue and expenditure estimates for the next calendar year, showing planned Pacific Island Government priorities and expenditure where possible;
 - (iv) Updates to the status of offices and staffing arrangements, if any;
 - (v) A risk management plan which will be used by the Contractor on an ongoing basis, and contains provisions for advance notification of DFAT of risks that may lead to disruption or delay to achievement of the EOPOs;
 - (vi) Attached to the first Annual Plan will be a GESI Plan (taking into account Annex 6 to the IDD) and Public Diplomacy Plan. Updates will be provided in subsequent Annual Plans if any changes;
 - (vii) Also attached to the Annual Plans will be the **Annual Training Profile** for the following calendar year. The Annual Training Profile will include, but not be limited to:
 - A. a list of courses by certificate level offered with a tuition fee waiver in the previous semester including actual student numbers at each of Fiji, PNG, Samoa, Solomon Islands and Vanuatu and including the number and value of access bursaries involved;
 - B. a list of courses and/or skill sets by certificate level offered on a fee-paying basis in the previous semester including actual student numbers at each of Fiji, PNG, Samoa, Solomon Islands and Vanuatu or in any workplaces or other countries.
 - C. for the coming calendar year, a list of courses by certificate level proposed to be offered with a tuition fee waiver in each semester including proposed student numbers at each of Fiji, PNG, Samoa, Solomon Islands and Vanuatu and including the projected number of access bursaries involved.
 - D. a list of courses and/or skill sets contracted or available for delivery in each semester on a fee-paying basis; and,
 - (viii) Any other relevant issues.
- (d) **Interim Annual Plan:** By 30 June 2018, the Contractor will provide an interim Annual Plan for the period 1 July – 31 December 2018. The format of the Interim Plan will align with the format of the Annual Plan above and will be agreed with DFAT prior to its development.

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- (e) **Six-monthly Progress and Performance Reports:** by **15 July** (covering 1 January – 30 June) and **15 January** (covering 1 January – 31 December) each year. The January report will serve as the Program's **Annual Report**. Progress Reports must provide:
- (i) an update to the Annual Plan, reflecting any amendments/updates emerging from the Contractor-facilitated six-monthly process of review and reflection;
 - (ii) an assessment of progress towards achievement of EOPOs;
 - (iii) information relevant to DFAT's assessments (with evidence) of:
 - A. APTC3 contribution to DFAT Aid Program PAF indicators; and
 - B. APTC3 performance against DFAT's aid quality check (AQC) criteria;
 - (iv) a statement of program expenditure that shows disaggregated expenditure for the previous and coming six-month period, identifying all categories of expenditure;
 - (v) a summary of the services provided;
 - (vi) any problems encountered and the actions taken to resolve those problems and prevent reoccurrence;
 - (vii) updates and issues relating to the future delivery services;
 - (viii) tasks or jobs not completed in accordance with the Contract or approved Plans;
 - (ix) a summary of the Contractor's compliance with Performance Standards, detailing all instances where a Performance Standard breach occurred, and actions taken to remedy the breach and prevent re-occurrence.
- (f) **Sustainability Strategies/Plans** for each country where APTC has a Country Manager/Office. These Strategies/Plans are due 1 June 2020 or otherwise agreed with DFAT. These documents will include, but not be limited to:
- (i) an analysis of the country's TVET system, including its capacity to deliver quality TVET outcomes to students (policies, systems, staffing, financial and other resources), its links to industry / enterprises, and the extent to which it meets accepted international standards;

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- (ii) a profile of APTC's partnership arrangements with local institutions and the degree to which joint training is being effectively planned and delivered;
 - (iii) the status of TVET reform initiatives being undertaken by local authorities and the extent to which coalitions for TVET reform are gaining traction (with or without APTC3 support);
 - (iv) the type and level of co-investment being provided by government, industry and other stakeholders in APTC supported training;
 - (v) identified opportunities for APTC3 to continue or strengthen its support for locally driven TVET systems strengthening / reform initiatives; and
 - (vi) strategies to promote sustainability of benefits assuming the closure of APTC3 in 2014, including (as appropriate) transfer of assets (hard and soft) to local partners.
- (g) **A Program Completion Report:** provided at least three (3) months before the end of the program and meeting DFAT's documented requirements at that time. It will include reference to any independent reviews conducted during the program, and analyse APTC3 strengths and weaknesses. The final Report must be submitted to DFAT for approval no later than two (2) weeks before the end of the program;
- (h) **Exception Reports:** The Contractor will report immediately, and in any event within seven (7) days, to DFAT on any actual, perceived or anticipated problems or risks that may have a significant effect on the achievement of the aims and objectives of the Program: on the cost to DFAT; on the delivery or operation of the Services, or on the reputation of the Government of Australia. If the report is first given verbally, the Contractor must confirm the report in writing to DFAT within seven (7) days. The Contractor must recommend to DFAT options to prevent or mitigate the impact of any problems or risks.
- 22.2 With written agreement with DFAT, the timing and content of the reports and plans may change.
- 22.3 All reports must:
- (a) be accurate and not misleading in any respect;
 - (b) be prepared in accordance with directions provided by DFAT;
 - (c) be concise, well formatted and incorporate sufficient information to allow DFAT to monitor and assess the success of the Services in achieving DFAT's objectives;
 - (d) comply with DFAT's *Guidelines for Preparing Accessible Content* (available from DFAT's website at: www.dfat.gov.au);

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- (e) be provided in Microsoft Word format (or Microsoft Excel format for spread sheets) unless otherwise approved or requested by DFAT;
- (f) not incorporate either DFAT or the Contractor's logo;
- (g) be provided at the times specified in this **Section 8** (Reports) of this **Schedule 1**; and
- (h) be provided in accordance with the specification under **Clause 43** (Reports) in **Part 4**.

23. PARTNER PERFORMANCE ASSESSMENT

- 23.1 DFAT and the Contractor will meet every six months to discuss the Partner Performance Assessment (PPA) in preparation for the annual PPA. At these meetings the Contractor must provide a self-assessment of its performance against PPA criteria. DFAT and the Contractor will compare the results of DFAT's assessment and the Contractor's self-assessment in order to align expectations, identify areas of good performance or for improved performance, and agree actions. The goal of both DFAT and the Contractor will be to support achievement of EOPOs and make a clear contribution to the program's goal and purpose. Continuous improvement through effective learning, and value for money, are also key drivers of performance.

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Annex 1- Staff to continue to APTC3

NOTE: Those positions continuing are to be confirmed against the 2018 Semester 2 training profile (currently in draft). Those positions to be determined by the tenderer do not have to be based in the Regional Office in Suva, this is to be proposed by tenderers.

Position Title	ARF / National Staff	Continued by the Contractor or to be determined by tenderers (TBD)
REGIONAL OFFICE - SUVA		
Executive Office		
TBD		
Senior Executive Assistant	NS	Continued
Executive Assistant	NS	Continued
Strategy, Monitoring & Evaluation		
TBD		
Corporate Services & Commercial Operations		
TBD		
Training Delivery		
TBD		
Planning, Performance & Reporting		
TBD		
Assistant Manager Data Analysis & Performance	NS	Continued
Student Data Administrator	NS	Continued
Survey Data Collection and Entry Officer	NS	Continued
Applications & Enrolment Officer	NS	Continued
Data Collections & Entry Officer	NS	Continued
Data Entry Officer	NS	Continued
Promotion & Communication		
Manager P&C	NS	Continued
Assistant Manager P&C	NS	Continued
Alumni & Student Recruitment Coordinator	NS	Continued
Communication Officer	NS	Continued
Communication Officer	NS	Continued
Events & Branding Officer	NS	Continued
Alumni Data & Promotion Assistant	NS	Continued
Finance		
Manager Finance		TBD
Senior Financial Accountant	NS	Continued
Management Accountant	NS	Continued
Travel & Insurance Coordinator	NS	Continued
Finance Officer Audit & Assurance	NS	Continued
Finance Officer RHO & Australia	NS	Continued
Finance Officer /Student Travel	NS	Continued
Accounts Payable & Reconciliations Officer	NS	Continued
Travel Officer	NS	Continued
Human Resources Management		
Manager HRM		TBD

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Assistant Manager HR	NS	Continued
Human Resources Officer Recruitment	NS	Continued
Human Resources Officer Compliance/Development	NS	Continued
Payroll Officer	NS	Continued
Human Resources Assistant	NS	Continued
Information Communication Technology (ICT)		
Manager ICT	NS	Continued
Assistant Manager ICT	NS	Continued
Systems Development Engineer	NS	Continued
Systems Development Officer	NS	Continued
Senior ICT Officer Fiji	NS	Continued
ICT Officer Fiji	NS	Continued
ICT Support Officer	NS	Continued
Property & Facilities		
Manager Property & Facilities	NS	Continued
Property & Facilities Officer	NS	Continued
Asset & Procurement Officer	NS	Continued
KIRIBATI AND TONGA		
Country Representatives - Kiribati	NS	Continued
Country Representative – Tonga	NS	Continued
FIJI CAMPUS		
ADMINISTRATION STAFF		
Country Manager		TBD
Manager Operations	NS	Continued
Student Support & Welfare Officer I	NS	Continued
Student Support & Welfare Officer II	NS	Continued
Student Support & Welfare Officer III	NS	Continued
Senior Student Administration Officer	NS	Continued
Campus Administration Officer	NS	Continued
Accounts Payable & Reconciliation Officer I	NS	Continued
Accounts Payable & Reconciliation Officer II	NS	Continued
Operations Officer	NS	Continued
Customer Services Officer	NS	Continued
Customer Services Officer/Receptionist	NS	Continued
Stores & Maintenance Officer Trades	NS	Continued
Stores & Maintenance Officer Construction	NS	Continued
Stores & Maintenance Officer Hospitality	NS	Continued
Stores & Maintenance Officer Electrical & RAC	NS	Continued
TRAINING STAFF		
Specialist Vocational Training Adviser Trades	C2	Continued
Specialist Vocational Training Adviser Community	C2	Continued
Trainer Electrotechnology	B2	Continued
Trainer RAC	B2	Continued
Trainer Patisserie	B2	Continued
Trainer Diploma Counselling	B2	Continued
Trainer Diploma Counselling	B2	Continued

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Trainer Disability	B2	Continued
Trainer Early Childhood Education & Care	B2	Continued
Trainer Individual Support	B2	Continued
Training Coordinator TAE & Business Programs	B2	Continued
Trainer Cert IV TAE & Business Programs	B2	Continued
Trainer Applied Fashion Design & Technology	B2	Continued
Trainer Applied Fashion Design & Technology	B2	Continued
Trainer Diesel Fitting	NS	Continued
Trainer Diesel Fitting	NS	Continued
Trainer Fitting & Machining	NS	Continued
Trainer Automotive	NS	Continued
Trainer Automotive	NS	Continued
Trainer Carpentry	NS	Continued
Trainer Carpentry	NS	Continued
Trainer Wall & Floor Tiling/Cert IV TAE	NS	Continued
Trainer Painting & Decorating	NS	Continued
Trainer Hospitality	NS	Continued
Trainer Commercial Cookery	NS	Continued
Trainer Tourism	NS	Continued
Trainer Individual Support	NS	Continued
Trainer Cert IV TAE & Business Programs	NS	Continued
Trainer Cert IV TAE & Business Course	NS	Continued
Trainer Cert IV TAE & Business Course	NS	Continued
Trainer Community Services	NS	Continued
Tutor Painting & Decorating	NS	Continued
Tutor Hospitality	NS	Continued
Tutor Wall & Floor Tiling	NS	Continued
Tutor RAC	NS	Continued
Tutor Individual Support	NS	Continued
Tutor Applied Fashion Design & Technology	NS	Continued
Training Assistant Diesel Fitting	NS	Continued
Training Assistant Automotive	NS	Continued
Training Assistant Fitting & Machining	NS	Continued
Training Assistant Electrical	NS	Continued
Training Assistant Carpentry	NS	Continued
Training Assistant Patisserie	NS	Continued
Training Assistant Commercial Cookery	NS	Continued
Training Assistant Early Childhood	NS	Continued
Learning Support Facilitator	NS	Continued
Learning Support Facilitator	NS	Continued
Learning Support /Work skills Facilitator	NS	Continued
Learning Support /Work skills Facilitator	NS	Continued
SOLOMON ISLANDS CAMPUS	NS	Continued
ADMINISTRATION STAFF		
Country Manager		TBD
Corporate Administration Officer	NS	Continued

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Student Services Officer	NS	Continued
Campus Administration/Finance Officer	NS	Continued
Administration Assistant Leadership & Management	NS	Continued
Administration/Reception Clerk	NS	Continued
TRAINING STAFF		
Trainer Coordinator LLN	B2	Continued
Trainer Carpentry	B2	Continued
Trainer Hospitality	B2	Continued
Trainer Leadership & Management	B2	Continued
Tutor Carpentry	NS	Continued
Tutor Hospitality	NS	Continued
VANUATU CAMPUS		
ADMINISTRATION STAFF		
Country Manager		TBD
Operations Supervisor	NS	Continued
Corporate Administration Officer	NS	Continued
Student Support & Welfare Officer	NS	Continued
Campus Administration Officer	NS	Continued
Campus Finance Officer	NS	Continued
TRAINING STAFF		
Specialist Vocational Training Adviser Service Industries	C2	Continued
Trainer Education Support	B2	Continued
Trainer Carpentry	B2	Continued
Trainer Commercial Cookery	B2	Continued
Trainer Community Services	B2	Continued
Trainer Early Childhood	NS	Continued
Trainer Hospitality	NS	Continued
Trainer Tourism	NS	Continued
Tutor Carpentry	NS	Continued
Tutor Commercial Cookery	NS	Continued
Training Assistant Early Childhood	NS	Continued
Training Assistant Education Support	NS	Continued
Training Assistant Hospitality	NS	Continued
Learning Support Facilitator (incl. WSF)	NS	Continued
PAPUA NEW GUINEA		
ADMINISTRATION STAFF		
Country Manager		TBD
Operations Manager	NS	Continued
Corporate Administration Coordinator	NS	Continued
Student Services Supervisor	NS	Continued
Properties & Facilities Coordinator	NS	Continued
Commercial Services Coordinator	NS	Continued
Student Support & Welfare Officer	NS	Continued
ICT Officer	NS	Continued
Campus Finance Officer	NS	Continued

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Campus Administration Officer	NS	Continued
Applications Administrator	NS	Continued
Applications Administrator	NS	Continued
Human Resources/Administration Officer	NS	Continued
Student Administrator Officer	NS	Continued
Campus Warden	NS	Continued
Administration/Reception Clerk	NS	Continued
Stores & Maintenance Officer	NS	Continued
Stores & Maintenance Officer	NS	Continued
TRAINING STAFF		
Specialist Vocational Training Adviser Engineering	C2	Continued
Training Delivery Coordinator NATC	B2	Continued
Trainer Electrotechnology Electrician	B2	Continued
Trainer Electrotechnology Electrician	B2	Continued
Trainer Diesel Fitting	B2	Continued
Trainer Carpentry	NS	Continued
Trainer Fitting & Machining	NS	Continued
Trainer Fabrication & Welding	NS	Continued
Trainer Light Vehicle Automotive	NS	Continued
Trainer Hospitality	NS	Continued
Trainer Commercial Cookery	NS	Continued
Trainer Commercial Cookery	NS	Continued
Trainer Hospitality	NS	Continued
Tutor Electrotechnology Electrician	NS	Continued
Tutor Diesel Fitting	NS	Continued
Tutor Commercial Cookery	NS	Continued
Training Assistant Carpentry	NS	Continued
Training Assistant Fitting & Machining	NS	Continued
Training Assistant Fabrication & Welding	NS	Continued
Training Assistant Light Vehicle Automotive	NS	Continued
Learning Support Facilitator	NS	Continued
Learning Support Facilitator	NS	Continued
Work skills Facilitator	NS	Continued
SAMOA CAMPUS		
ADMINISTRATION STAFF		
Country Manager		TBD
Operations Supervisor	NS	Continued
Corporate Administration Officer	NS	Continued
Senior ICT Officer Samoa	NS	Continued
Student Support & Welfare Officer	NS	Continued
Student Administration Officer	NS	Continued
Campus Finance Officer	NS	Continued
Campus Administration Officer	NS	Continued
Application Administrator	NS	Continued
Stores & Maintenance Officer	NS	Continued
TRAINING STAFF		

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Specialist Vocational Training Adviser Construction	C2	Continued
Trainer Education Support	B2	Continued
Trainer Youth Work	B2	Continued
Trainer Plumbing	B2	Continued
Trainer Plumbing	B2	Continued
Trainer Commercial Cookery	NS	Continued
Trainer Hospitality	NS	Continued
Trainer Fabrication Welding	NS	Continued
Tutor Plumbing	NS	Continued
Training Assistant Education Support	NS	Continued
Training Assistant Hospitality	NS	Continued
Training Assistant Youth Work	NS	Continued
Training Assistant Metal Fabrication	NS	Continued
Training Assistant Commercial Cookery	NS	Continued
Learning Support Facilitator	NS	Continued

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Annex 2: Leases and contracts to be continued

Country	Number of Site Locations	Number of Leases	Annual Value of Leases AUD	Number of Partnership Agreement Site Access	Site Access + Student Accommodation in Partnership Agreement	Total Lease costs Per Annum
Fiji	13	7	687,352	6	571,177	1,258,529
Vanuatu	10	5	225,129	5	200,119	425,248
Samoa	12	3	108,000	9	200,292	308,292
Solomon Islands	3	1	104,775	2	17,138	121,913
PNG	4	0	0	4	225,000	225,000
Total	42	16	1,125,256	26	1,213,726	2,338,982

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Annex 3: Indicative Semester 2 2018 training profile

Course	Location	Semester	Start date	End date	Enrolled students	Estimated graduates
Certificate III in Air Conditioning and Refrigeration	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Applied Fashion Design and Technology	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	20	18
Certificate III in Carpentry	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Carpentry	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Early Childhood Education and Care	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Electrotechnology Electrician	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Engineering - Mechanical Trade (Diesel Fitting)	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Engineering - Mechanical Trade (Fitting and Machining)	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Light Vehicle Mechanical Technology	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Light Vehicle Mechanical Technology	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Painting and Decorating	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Wall and Floor Tiling	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate IV in Disability	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	20	18
Certificate IV in Leadership and Management	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Individual Support (Ageing Home and Community)	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Hospitality (Food Beverage)	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	18	16
Certificate III in Patisserie	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Commercial Cookery	FJ-SUV	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Carpentry	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Commercial Cookery	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Electrotechnology Electrician	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Electrotechnology Electrician	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Engineering - Fabrication Trade	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Engineering - Mechanical Trade (Diesel Fitting)	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Hospitality (Food Beverage)	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	18	16

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Diploma of Counselling	PG-POM		November 2017	August 2018		18
Certificate III in Light Vehicle Mechanical Technology	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate IV in Leadership and Management	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate IV in Leadership and Management	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018		22
Certificate III in Engineering - Mechanical Trade (Fitting and Machining)	PG-POM	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Carpentry	SB-HON	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	18	16
Certificate III in Hospitality (Accommodation Services)	SB-HON	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	18	16
Certificate IV in Leadership and Management	SB-HON	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate IV in New Small Business	SB-HON	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Carpentry	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	14
Certificate III in Commercial Cookery	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Hospitality (Food Beverage)	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	16	14
Certificate III in Tourism	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	20	18
Certificate IV in Leadership and Management	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Education Support	VU-VILA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	20	18
Certificate III in Engineering - Fabrication Trade	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Plumbing	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate IV in Youth Work	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	20	18
Certificate IV in Leadership and Management	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	24	22
Certificate III in Commercial Cookery	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13
Certificate III in Hospitality (Accommodation Services)	WS-APIA	Semester 2, 2018	Monday, 9 July 2018	Friday, 7 December 2018	14	13

SCHEDULE 2 – Pricing Schedule**1. TOTAL AMOUNT PAYABLE**

- 1.1 The maximum amount payable by DFAT to the Contractor for the provision of the Goods and/or Services shall not exceed the sum of **AUD128,750,000** plus GST if any up to a maximum amount of **AUD12,875,000**. DFAT shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount
- 1.2 The maximum amount payable is comprised of the following items:
- (a) Management Fees not exceeding the sum of **AUD**[insert amount] plus GST;
 - (b) Personnel Fees including:
 - (i) Long term Adviser Costs (ARF) up to a maximum of AUD[insert amount] plus GST;
 - (ii) Short term Adviser Costs (ARF) up to a maximum of AUD[insert amount] plus GST;
 - (iii) Long term Personnel Costs (non ARF) up to a maximum of AUD[insert amount] plus GST;
 - (iv) Short term Personnel Costs (non-ARF) up to a maximum of AUD[insert amount] plus GST;
 - (c) Adviser Support Costs up to a maximum of **AUD**[insert amount] plus GST;
 - (d) Operational Costs up to a maximum of **AUD**[insert amount] plus GST; and
 - (e) Program Costs up to a maximum of **AUD**[insert amount] plus GST.
- 1.3 When expenditure reaches 80 per cent of the limits of any Reimbursable Costs as specified in this Schedule 2, the Contractor will advise DFAT of remaining commitments.
- 1.4 Amounts identified in Clause 1.2 (b) – (e) above may be moved between Reimbursable Cost items provided prior written approval is obtained from DFAT. If funds are moved between costs, relevant tables in Annex 1 to this Schedule 2 must be updated and approved in writing by DFAT. Any changes to Management Fees require a Contract Amendment.

2. MANAGEMENT FEE

- 2.1 The maximum amount payable to the Contractor in Management Fees shall not exceed the sum of **AUD**[insert amount] plus GST
- 2.2 The Management Fee is comprised of the following:
- (a) profits, including commercial margins and mark-up for personnel and project management;
 - (b) financial management costs; including the cost of independent audits of the Project and financing costs, if any;
 - (c) the cost of financial charges;
 - (d) costs of Contractor administrative. head office staff and Associates (if any), including the costs of contractor personnel travel and all inputs, if any;

- (e) insurance costs as required by this Contract, but exclusive of medical insurance costs for Advisers;
- (f) taxation, as applicable;
- (g) costs of complying with the Contractor's reporting and liaison obligations under this Contract;
- (h) costs associated with all personnel briefings in Australia or in-country;
- (i) costs associated with any subcontracting and procurement of goods and services;
- (j) costs, including domestic and international travel, accommodation, per diems and local transport costs where required for Contractor Head Office personnel;
- (k) any other overheads required to perform the Services in accordance with this Contract;
- (l) all escalators for the management fees for the term of this Contract; and
- (m) any allowance for risks and contingencies.

2.3 DFAT shall pay the Contractor's Management Fees in accordance with **Table(s) X** below subject to receipt of a correctly rendered invoice and DFAT's confirmation that the Goods and/or Services have been provided as required by this Contract.

<<How DFAT will pay the contractor's management fees will depend on the successful Tenderer's offer and contract negotiations, and as such the following clauses are for information only>>

<<Note, if a Milestone is DFAT's acceptance of a report, DFAT shall not be obliged to make the Milestone Payment until all of the outputs to be achieved by the Contractor in the period covered by the report have been achieved. >>

3. PERSONNEL

3.1 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for Personnel/Associate Fees as follows:

LONG TERM ADVISER COSTS (ARF)

3.2 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for the Long Term Adviser Costs as specified in **Table X of Annex 1** to this **Schedule 2**. For each Long Term Adviser engaged under the Adviser Remuneration Framework, DFAT shall pay the Contractor the following items:

- (a) the Monthly Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Monthly Remuneration Rate shall be inclusive of:
 - (i) base salary;
 - (ii) Superannuation Guarantee Contribution, if any;
 - (iii) paid annual leave allowances of up to **twenty (20) days** per annum and personal leave allowances of up to **ten (10) days** per annum, to

accrue on a pro rata basis per **twelve (12) months'** continuous engagement on the Project;

- (iv) any locally recognised public holidays;
- (v) private transport costs;
- (vi) all escalators for the term of this Contract; and
- (b) Mobility Allowance, where applicable;
- (c) Mobility Allowance Supplement, where applicable;
- (d) Special Location Allowance, where applicable.

SHORT TERM ADVISER COSTS (ARF)

3.3 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for Short Term Adviser Costs as specified in **Table X of Annex 1** to this **Schedule 2**. For each Short Term Adviser engaged under the Adviser Remuneration Framework, DFAT shall pay the Contractor the following items:

- (a) the Daily Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Daily Remuneration Rate shall be inclusive of:
 - (i) base salary; and
 - (ii) Superannuation Guarantee Contribution, if any.

LONG TERM PERSONNEL (NON-ARF)

3.4 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for Long Term Personnel Costs as specified in **Table X** in **Annex 1** to this **Schedule 2**. For each Long Term Personnel, DFAT shall pay the Contractor the following items:

- (a) a Monthly Remuneration Rate inclusive of:
 - (i) base salary;
 - (ii) Superannuation Guarantee Contribution, if any;
 - (iii) paid annual leave according to local labour laws.
 - (iv) any entitlements in accordance with local labour laws;
 - (v) public holidays;
 - (vi) private transport costs; and
 - (vii) all escalators for the term of this Contract.

SHORT TERM PERSONNEL (NON-ARF)

3.5 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for Short Term Personnel Costs as specified in **Table X** in **Annex 1** to this **Schedule 2**. For each Short Term Personnel, DFAT shall pay the Contractor the following items: a Daily Remuneration Rate inclusive of:

- (a) base salary;
 - (b) any entitlements in accordance with local labour laws; and
 - (c) Superannuation Guarantee Contribution, if any.
- 3.6 Contractor Remuneration Rates for all Personnel must be exclusive of any profit, overheads, administration or management fee, or any other mark-up/margins by the Contractor
- 3.7 Annual leave accrued by Contractor Personnel during the Project shall be deemed to be taken in the twelve (12) month period it falls due and cannot be accumulated or paid out. Personnel leave may be accrued over the Term of the Contract with any unutilised leave lapsing at the end of the engagement, and cannot be paid out.
- 3.8 Personnel remuneration Rates are based on a working day of at least eight (8) hours. The Contractor is not entitled to claim for additional Personnel Costs if they work more than eight (8) hours per working day.
- 3.9 The Contractor shall be paid for the lesser of actual number of days/months' work undertaken by its Personnel or the maximum values specified in Table X of Annex 1 to this Schedule 2. The Contractor must keep verifiable records to enable verification of actual time spent undertaking the Services.
- 3.10 DFAT shall pay the Contractor for Personnel Fees at the end of each three (3) month period on a reimbursable basis in arrears subject to receipt of a correctly rendered invoice.
- 4. ADVISER SUPPORT COSTS**
- 4.1 DFAT shall reimburse the Contractor at actual cost up to a maximum of **AUD[insert amount]** plus GST for Adviser Support Costs under the ARF in accordance with **Table X** in **Annex 1** to this **Schedule 2**.
- 4.2 The categories of payment for the Adviser Support Costs are as follows:
- (a) **Housing Costs:** expenses associated with accommodation for Long Term Advisers/Personnel. Long Term Advisers/ Personnel with spouses or partners who are already in receipt of an expatriate accommodation allowance will not be eligible for reimbursement of Housing Costs;
 - (b) **Mobilisation/Demobilisation costs:** for Long Term Advisers/Personnel including all reasonable one-off costs associated with mobilisation and demobilisation including: any necessary medical clearances and inoculations; uplift of effects; storage; and the cost of one return international flight from home location for the Long Term Adviser/Personnel and dependents;
 - (c) **Airfares:** reimbursed at economy class for all domestic flights, and for international flights less than two (2) hours continuous flight time; and business class for international flights over two (2) hours continuous flight time. Any travel undertaken at cheaper rates (e.g. discount fares) does not entitle the Contractor to reimbursement of the cost of any higher class of travel. Travel must be via the most direct and cost effective route;
 - (d) **Hotel Accommodation:** reimbursed at lesser of actual cost incurred or amount specified, per 24 hour period;

- (e) **Travelling Allowance:** a daily rate towards the costs of meals and incidentals;
- (f) **International Communication costs:** an agreed rate for costs that are directly related to the Services;
- (g) **Compulsory Arrival and Departure Taxes and Travel to and from Airport:** reimbursed at reasonable cost;
- (h) **Transport Costs:** which includes reasonable costs directly relating to the Services and for overseas Project purposes only;
- (i) **Medical Insurance:** reimbursed at reasonable cost; and
- (j) **Security Costs:** reimbursed at reasonable cost

4.3 If requested by DFAT, for payment verification purposes, the Contractor shall provide DFAT with appropriate documentation to support all Adviser Support Costs claimed (excluding travelling allowance).

4.4 DFAT shall pay the Contractor for Adviser Support Costs at the end of each three (3) month period on a reimbursable basis in arrears subject to receipt of a correctly rendered invoice.

5. OPERATIONAL COSTS

5.1 DFAT shall reimburse the Contractor at actual cost up to a maximum of AUD[insert amount] plus GST for Operational Costs in accordance with Table X in Annex 1 to this Schedule 2.

5.2 DFAT shall pay the Contractor for Operational Costs at the end of each three (3) month period on a reimbursable basis in arrears subject to receipt of a correctly rendered invoice.

6. PROGRAM COSTS

6.1 DFAT shall reimburse the Contractor monthly at actual costs up to a maximum of AUD[insert amount] plus GST, if any, for Program Costs in accordance with Activity costs approved through the Program's Mobilisation, Inception and Annual Plans.

7. CLAIMS FOR PAYMENT

7.1 The Contractor's tax invoice must be submitted when due pursuant to this Schedule 2 in a form identifiable with the Goods and/or Services and in accordance with Clause 45 (Payment) in Part 5. Invoices must also reference the Payment Event number(s) as notified by DFAT.

7.2 All claims for payment must be made to:

Financial Operations Section
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221
AUSTRALIA

- 7.3 Tax invoices should be sent to the above address. Alternatively DFAT shall accept electronic tax invoices. These can be sent to accounts@dfat.gov.au and copy in the DFAT Activity Manager/Contact Person.
- 7.4 Invalid invoices will be returned to contractors.
- 7.5 Information on what constitutes a valid tax invoice can be found at <https://www.ato.gov.au/business/gst/issuing-tax-invoices/>

ANNEX 1 TO THIS SCHEDULE 2

<< to be inserted from preferred Tenderer's bid and following contract negotiations>>

THIS DEED POLL is made on the _____ day of
[]

in favour of **COMMONWEALTH OF AUSTRALIA** represented by the Department of Foreign Affairs and Trade ("DFAT").

BY [Insert name and address of Recipient who will have access to Confidential Information] (the "Recipient").

RECITALS

1. DFAT and **Contractor's Name** (the "Contractor") have entered into a Contract for the purpose of a project in [Country].
2. The Recipient has been engaged by the Contractor to work on the project.
3. The Recipient, in carrying out that work, be given access to Confidential Information.
4. DFAT requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1 INTERPRETATION

In this Deed, unless the contrary intention appears:

'Confidential Information' means information that:

- 1.1 is designated by DFAT as confidential; or
 - (a) the Recipient knows or ought to know is confidential, but does not include information which:
 - (b) is or becomes public knowledge other than by breach of this Deed or other obligation of confidentiality.

"Personal Information" has the same meaning as in the *Privacy Act 1988*.

2 CONFIDENTIAL INFORMATION

- 2.1 The Recipient acknowledges and agrees that:
 - (c) the Confidential Information is confidential and that any Confidential Information disclosed to the Recipient is disclosed to the Recipient only pursuant to the terms of this undertaking;
 - (d) it must not, other than with the prior written approval of the Commonwealth, use, disclose, divulge or deal with any Confidential Information, nor allow any act, matter or thing to be done or occur whereby any Confidential Information may be ascertained or used by,

or disclosed or communicated to, any other person, except in accordance with the terms of this undertaking; and

- (e) improper use or disclosure of Confidential Information would damage the Commonwealth.

8. **3. Article 1. RESTRICTIONS ON USE**

3.1 The Recipient must:

3.1.1 keep the Confidential Information, and all documents containing, or referring to, any Confidential Information, under effective control of the Recipient;

- (a) not use or reproduce any document containing, or referring to, any Confidential Information, nor allow any other person to use or reproduce any such document;
- (b) take all reasonable steps to ensure that Confidential Information, and all documents containing, or referring to, any Confidential Information, are protected at all times from any unauthorised use, disclosure or access and immediately notify the Commonwealth if the Recipient becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information;
- (c) if required at any time by the Commonwealth to do so, deliver up to the Commonwealth, or destroy, all Confidential Information, including all documents containing, or referring to, any Confidential Information, in the possession, custody or control of the Recipient; and
- (d) if required by the Commonwealth:
 - (i) permit the Commonwealth reasonable access to the Recipient's premises and information management systems to ensure or check compliance with this undertaking; and
 - (ii) provide to the Commonwealth a statutory declaration of an officer of the Contractor stating that **Clause 3.1(e)** has been complied with.

9. **4. Article 2. PERSONAL INFORMATION**

4.1 The Recipient agrees, with respect to all Personal Information acquired by it during the performance of the Contract, to abide by the provisions of the *Privacy Act 1988* as if the Recipient were an "Agency" as defined by that Act.

10. **5. SURVIVAL OF OBLIGATIONS**

5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED, by the Individual in the presence of:

.....

Signature of Individual

.....

Name of Individual (*Print*)

.....

Date

.....

Signature of witness

.....

Name of witness (*Print*)

.....

Date

Confidential Information identified by DFAT

Description	Period of Confidentiality
<insert clause reference and brief description or insert “not applicable”>	

Confidential Information identified by the Contractor

Description	Period of Confidentiality
<insert clause reference and brief description or insert “not applicable”>	

**Part 3 – DRAFT CONTRACT
SCHEDULE 5
APTC RFT**

RECITALS

- A. DFAT wishes to procure certain services.
- B. **[Insert Contractor's Name]** ('Contractor') has agreed to supply the services to DFAT under the annexed Contract (the 'Contract').
- C. The Guarantor agrees to provide the guarantees and indemnities appearing in this Deed.

1. The Guarantor guarantees to DFAT the performance of the obligations undertaken by the Contractor under the Contract on the conditions set out in this Deed.
2. If the Contractor (unless relieved from the performance of the Contract by DFAT expressly or by statute or by a decision of a Court or tribunal of competent jurisdiction) fails to execute and perform its obligations under the Contract, the Guarantor shall, if required to do so by DFAT, complete or cause to be completed the obligations set out in, and in accordance with the conditions of, the Contract. If the Contractor commits any breach of its obligations, and such breach is not remedied by the Guarantor under this Deed and the Contract is then terminated for default, the Guarantor shall indemnify DFAT against losses, damages, costs and expenses directly incurred by reason of that default.
3. The Guarantor shall not be discharged or released or excused from this Deed by an arrangement made between the Contractor and DFAT with or without the consent of the Guarantor, or by any alteration, amendment or variation in the obligations assumed by the Contractor or by any forbearance whether as to payment, time, performance or otherwise. The guarantee by the Guarantor in this Deed to assume the obligations of the Contractor shall continue in force and effect until completion of all the Contractor's obligations under the Contract or until the completion of the undertakings under this Deed by the Guarantor.
4. The undertakings of the Guarantor under this Deed shall not exceed the obligations of the Contractor under the Contract. Any liability of the Guarantor shall be coextensive, but not in excess of any liability of the Contractor to DFAT under the Contract. The Guarantor shall be entitled to all rights, privileges and defences otherwise available, to the Contractor with respect to any such

Part 3 – DRAFT CONTRACT
SCHEDULE 6
APTC RFT

liability, including without limitation all provisions of the Contract relating to the limitation of liability and the resolution of disputes.

5. This Deed is subject to, and is to be construed in accordance with, the laws in force in the Australian Capital Territory and the parties agree that the courts of that Territory have jurisdiction to entertain any action in respect of, or arising out of, this Deed and the parties submit themselves to the jurisdiction of those courts.
6. For the purpose of this Deed, where an obligation of the Contractor under the Contract has not been performed, the Contractor shall be taken to have failed to perform that obligation notwithstanding that the Contractor has been dissolved or is subject to external administration procedures under **Chapter 5** of the *Corporations Law 2001*(Cth) or any other law.
7. The guarantee in this Deed is a continuing guarantee to DFAT until the obligations and liabilities of the Contractor under the Contract have in all respects been performed, observed and discharged.
8. The following notice arrangements apply:
 - 8.1 notice or other communication which may be given to or served on the Guarantor under this Deed shall be deemed to have been duly given or served if it is in writing, signed on behalf of DFAT and is either delivered by hand, posted or faxed or a copy transmitted electronically to the Guarantor or its agent at any registered office of the Guarantor or posted to the Guarantor's address set out above or such other address as is notified in writing to DFAT from time to time;
 - 8.2 a notice or other communication which may be given to or served on DFAT under this Deed shall be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Guarantor and is either delivered by hand, posted or faxed or a copy transmitted electronically to DFAT at the address set out above or such other address as is notified in writing to the Guarantor from time to time;
 - 8.3 a notice sent by post shall be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent; and
 - 8.4 a notice sent by facsimile transmission or transmitted electronically shall be deemed to have been given when the machine on which the notice is sent reports that the notice has been transmitted satisfactorily.

SIGNED for and on behalf of the
COMMONWEALTH OF
AUSTRALIA by:

.....
Signature of PGPA
Delegate/authorised DFAT
representative
.....
Name and Position **(Print)**

.....
Date

SIGNED for and on behalf of
[Guarantor] by:

.....
Director
.....
Name **(Print)**
.....
Date

In the presence of:
.....
Signature of witness
.....
Name of witness **(Print)**

.....
Date

.....
Director/Secretary
.....
Name **(Print)**
.....
Date

**Part 3 – DRAFT CONTRACT
SCHEDULE 7
APTC RFT**

THIS DEED POLL is made on the _____ day of _____
]

in favour of **COMMONWEALTH OF AUSTRALIA** represented by the
Department of Foreign Affairs and Trade (“DFAT”).

BY [Insert name and address of Adviser] (the “Adviser”).

RECITALS

- A. DFAT and **Contractor’s Name** (the “Contractor”) have entered into a Contract for the purpose of a project in [insert **Country**].
- B. The Adviser has been engaged by the Contractor to work on the project.
- C. DFAT requires the Adviser to enter into this Deed in order to confirm their eligibility to receive allowances under the Adviser Remuneration Framework for the DFAT – Australian Aid Program.

THE ADVISER DECLARES AS FOLLOWS:

(1) INTERPRETATION

In this Deed:

“Partner” means a person who:

- (a) has a close personal relationship with an Adviser;
- (b) shares accommodation or housing with an Adviser; and
- (c) who provides the Adviser with financial or domestic support.

“Dependant” means a person who:

- (a) has a close personal relationship with an Adviser;
- (b) shares accommodation or housing with an Adviser; and
- (c) who is provided with financial or domestic support by the Adviser.

“Dependant Child” means a child under 21 years of age who is a natural, step- or adopted child of the Adviser, a child of the Adviser’s Partner or a child for whom the Adviser is a legal guardian.

(2) ADVISER STATUS

- (a) The Adviser **[has/has not]** relocated in-country from their permanent country of residence.
- (b) The Adviser **[is/is not]** accompanied by dependants.
- (c) The Adviser’s dependants and/or partner **[are/are not]** in receipt of an expatriate housing allowance from the Commonwealth of Australia or any other employer.

**Part 3 – DRAFT CONTRACT
SCHEDULE 7
APTC RFT**

- (d) The Adviser's dependants and/or partner:
 - (i) [are/are not] currently employed by DFAT or on an DFAT funded project; and
 - (ii) [are/are not] in receipt of an allowance that recognises their accompanied status from the Commonwealth of Australia.
- (e) The Adviser **[is/is not]** accompanied by a Dependant Child/ren.
- (f) The Dependant Child/ren **[is/is not]** attends kindergarten through to year 12.
- (g) The Adviser acknowledges that he/she must provide proof of enrolment in a primary or secondary school for each Dependent Child in order to be eligible to receive the Mobility Allowance Supplement.
- (h) The Adviser must inform DFAT or the Contractor promptly if their status as described in this **Clause 2** changes.

(3) PROOF OF STATUS

- (a) DFAT may at any time, request the Adviser to give DFAT reasonable evidence to confirm the Adviser's status as described in **Clause 2**.
- (b) If DFAT makes a request under **Clause 3.1**, the Adviser must promptly comply with the request.

EXECUTED as a deed poll.

SIGNED, by the Adviser

In the presence of:

.....

.....

Signature of Adviser

Signature of witness

.....

.....

Name **(Print)**

Name of witness **(Print)**

.....

.....

Date

Date

Part 3 – DRAFT CONTRACT
SCHEDULE 8
APTC RFT

The Contractor has entered into a Contract with the Commonwealth of Australia as represented by the Department of Foreign Affairs and Trade (the “Contract”). Under that Contract, the Contractor offers to provide the Goods and Services to other Commonwealth Departments and Agencies.

The Commonwealth entity specified in **Item 3** below accepts this offer on the terms and conditions set out in the Contract and in this Agency Access Form. If there is an inconsistency between this Agency Access Form and any other provisions of the Contract, the terms and conditions in this Agency Access Form Contractor prevail to the extent of the inconsistency.

1	Contract description	
2	Names of Parties to the Contract	
3	Customer	<i>[Insert Department/Agency name]</i> A reference to <i>[insert name of the contracting Department /Agency]</i> or the Customer in the Contract Contractor be taken as a reference to <i>[the Agency]</i>
4	Commencement Date	
5	Customer Representative	Title: Name: Postal Address: Fax number: Email:
6	Customer’s details for Notices	Postal address: Physical address: Facsimile number:
7	Contractor Specified Personnel	<i>[insert names]</i>
8	Goods and/ or Services required	<i>[itemise the specifics required in a separate Attachment A to this Schedule 9]</i>
9	Any other changes	<i>[insert any additional commercial requirements, insurances,]</i>

**Part 3 – DRAFT CONTRACT
SCHEDULE 8
APTC RFT**

SIGNED by

.....
(Signature)
.....
...

(Name of authorised **[INSERT
NAME OF DEPARTMENT/
AGENCY REPRESENTATIVE]** in
block letters)

.....

Date

as authorised representative for
**[INSERT NAME OF
DEPARTMENT/AGENCY]** in the
presence of:

.....

(Signature of witness)

.....

(Name of witness in block letters)

.....

Date

EXECUTED by the (insert
Contractor name) in accordance
with section 127(1) of the
Corporations Act by authority of its
directors:

.....
(Signature of director / company
secretary*)

*delete whichever is not applicable

.....
(Signature of authorised DFAT
representative)

.....
....

(Name of authorised DFAT
representative)

.....
....

Date

By executing this Agreement the
signatory for [insert] warrants that
the signatory is duly authorised to
execute this Agreement on behalf
of **[INSERT NAME OF AGENCY]**

In the presence of

.....

(Signature of witness)

.....

(Name of witness in block letters)

Part 3 – DRAFT CONTRACT
SCHEDULE 8
APTC RFT

.....
(Name of director/company
secretary* in block letters)
.....
*delete whichever is not applicable Date

.....
Date

**Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT**

Partner Performance Assessment (PPA)

[DFAT uses Partner Performance Assessments (PPAs) to assess how well implementing partners are delivering the services required in aid agreements. PPAs are internal DFAT documents, but data from PPAs are used to inform future procurement evaluations, including Tender Evaluation Committees, partner selection decision making, and core contributions to multilateral organisations. PPAs should be completed by agreement managers and be based on the most recent 12 month period where performance information is available. Responses should be based on assessments of performance by a partner in relation to a specific agreement. It is mandatory to complete a PPA for all agreements with NGOs, commercial suppliers and multilateral organisations with a total value over \$3 million, except for core contributions to multilateral organisations. A proportional approach to completing the PPA should be adopted depending on the size and risk of the agreement. For agreements above \$10 million, text is required to provide evidence to support the ratings and identify any areas for improvement. For agreements between \$3 million and \$10 million, supporting text is only required if an unsatisfactory rating (i.e. 3 or below) or a rating of 6 (very good) is provided. As PPAs inform

Summary

Agreement Name	Agreement Name		
Partner's Name	Name of NGO, commercial supplier or multilateral organisation	Agreement Number	Agreement Number
Agreement Start Date	Start Date of Agreement	Agreement End Date	End Date of Agreement
Reporting period start date	Start date of the reporting period covered in this PPA	Reporting period end date	End date of the reporting period covered in this PPA
Total Value	\$AUD	Country/Region	Country / Region Name
Report drafted by	Name	Sector	Sector Name
Approved by	Counsellor / Director Name	Date approved	Date Approved
Partner Type	<input type="radio"/> NGO Organisation <input type="radio"/> Commercial Supplier <input type="radio"/> Multilateral <input type="radio"/> Other		
Agreement Type	<input type="radio"/> Procurement <input type="radio"/> Grant		

Australian Aid – Rated Performance Criteria

Rate each statement using the following six point scale as a guide.

Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT

Satisfactory		Less than satisfactory	
6	Very good; satisfies criteria in all or almost all areas	3	Less than adequate; on balance does not satisfy criteria but does not fail in any major area
5	Good; satisfies criteria in most areas	2	Poor; does not satisfy criteria in major areas
4	Adequate; on balance satisfies criteria; does not fail in any major area	1	Very poor; does not satisfy criteria in many major areas

1) Deliver Lasting Results and Impact - *Is the delivery partner achieving agreed objectives and results and promoting sustainability?*

a) Results focused and delivers on time, ensuring deliverables are of high quality, accurate and meet the defined requirements	1 5	2 6	3	4
b) Undertakes sound monitoring and evaluation reporting that includes quantitative and qualitative evidence of progress against objectives	1 5	2 6	3	4
c) Promotes sustainability and where applicable, is prepared for transition in/out of the activity	1 5	2 6	3	4
Overall rating:				

Assessment (no more than 300 words)

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

2) Maximise Value for Money (VfM) – *Is value for money being delivered ensuring effective, ethical, efficient and economical use of funds?*

a) Committed to eliminating inefficiency and duplication and applying lessons learnt to enhance VfM	1 5	2 6	3	4
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**Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT**

b) Delivers defined services within budget (predicted budgets compare well to actual expenditure)	1 5	2 6	3	4
c) Scrutinises costs to pursue the most cost-effective options and considers proportionality in planning/allocating resources	1 5	2 6	3	4
d) Robust systems and procedures in place to monitor and manage VfM during implementation	1 5	2 6	3	4
	Overall rating:			

Assessment (no more than 300 words)

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

3) Collaboration, Communication and Responsiveness – Does the partner work collaboratively, communicate effectively with stakeholders and respond effectively to emerging issues?

a) Communicates effectively with stakeholders and counterparts (including partner government, other donors, private sector, communities and beneficiaries as appropriate), works collaboratively, builds effective relationships and ensures DFAT is consulted on key developments and emerging issues	1 5	2 6	3	4
b) Demonstrates appropriate flexibility and responsiveness to DFAT requests and addresses problems/issues openly and constructively	1 5	2 6	3	4
	Overall rating:			

Assessment (no more than 300 words)

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

**Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT**

4) Policy Alignment, Risk Management and Innovation – Does the partner operate in a manner consistent with DFAT policies and priorities, effectively managing risk, fraud and corruption, and promoting innovation?

a) Partner takes appropriate account of DFAT policies including on Child protection, Environmental and Resettlement safeguards; Gender Equality and Disability Inclusive Development	1 5	2 6	3	4
b) Has effective systems for identifying, managing and reporting risk, fraud and corruption and informs DFAT of risks/issues that may adversely affect timing, cost or quality of services as agreed	1 5	2 6	3	4
c) Partner follows branding guidelines, including use of the DFAT crest and Australia Aid Identifier, and promotes the visibility of Australian Government funded aid investments as appropriate	1 5	2 6	3	4
Innovation (<i>This is not a performance standard. A low rating against this question does not necessarily result in a poor performance assessment</i>)				
d) Partner proposes and implements innovative development approaches (e.g. results-based aid; trialling/adapting new technologies), leveraging new partnerships/sources of finance, whilst mitigating associated risks	1 5	2 6	3	4
	Overall rating:			

Assessment (no more than 300 words)

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

5) Effective partner personnel – Does the partner provide personnel with appropriate skills and experience and manage them effectively?

**Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT**

a) Senior personnel demonstrate effective leadership and management, achieve results against agreed responsibilities and communicate effectively	1 5	2 6	3	4
b) Head/Regional Office provides effective support and oversight to the in-country team	1 5	2 6	3	4
c) Recruitment and management of staff is conducted in a timely and professional manner and DFAT has been alerted to any recruitment/staffing issues	1 5	2 6	3	4
	Overall rating:			

Assessment (no more than 300 words)

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

6) Other Agreement Specific Measurable(s) - [If necessary, use the fields below to add any indicators specific to the partner performance agreement]

a) Quality of relationships with CSOs, DFAT, and other stakeholders	1 5	2 6	3	4
b) Quality of support for the Fund approach, principles and processes	1 5	2 6	3	4
c) Quality of support for embedding gender and inclusion into high-quality WASH implementation	1 5	2 6	3	4
d) Facilitate timely and high quality knowledge and learning processes and outputs to inform the iterative and adaptive programming of the CSOs, exert broader sector influence and support public diplomacy efforts	1 5	2 6	3	4

Assessment (no more than 300 words)

**Part 3 – DRAFT CONTRACT
SCHEDULE 9
APTC RFT**

For agreements above \$10 million: It is mandatory to provide evidence to support the ratings given. This should include any identified areas for improvement.

For agreements between \$3-10 million: Supporting evidence is required if a rating of 3 or below or 6 is given.

7) General Comments (no more than 500 words)

Use this text box to record any other information relevant to the performance of the partner. If there is insufficient space, a separate PDF can be uploaded to AidWorks. Advise here where additional information can be found, if applicable.

Partner Acknowledgement

- ☐ I/we endorse this Partner Performance Assessment

Name:	
Position:	
Date:	

OR

- ☐ I/we do not endorse this Partner Performance Assessment and attach a written statement detailing the reasons for this

Name:	
Position:	
Date:	

NOTES FOR COMPLETING:

1. This form is to be used by DFAT and/or its implementing Partners for assessing Adviser performance.
2. An Adviser Performance Assessment (APA) is undertaken on completion of an adviser contract, or annually for engagements longer than one year in duration.
3. DFAT or the relevant MC may seek the views of Partner Government officials involved in the activity when completing the APA.
4. Where underperformance is identified in an APA, practical steps to rectify the performance issues must be put in place. Where underperformance is not sufficiently rectified, there must be practical consequences.
5. In all cases, Advisers must be given 15 working days to review and sign the APA.
6. Completed APAs must be emailed to contractor.performance@dfat.gov.au.

NOTES FOR ADVISERS:

1. Advisers are required to sign completed APAs within 15 working days of receipt.
2. Advisers may include a written response with the APA to address any issues raised.
3. Responses must be returned to the party conducting the APA (i.e. DFAT or Managing Contractor)
4. Failure to respond within 15 working days of receipt is deemed as acceptance of the APA.
5. Completed APAs are placed on DFAT's performance register and remain valid for five (5) years.
6. APAs, including written responses from Advisers, can be used by DFAT as part of a future adviser selection process.
7. APAs may be provided by DFAT to other Partner (Government, Multilateral etc.) procurement processes which involve DFAT funds.

Summary

Adviser Name	<i>Adviser Name</i>	Agreement Name	<i>Agreement Name</i>
Managing Contractor	<i>Name of Commercial Partner</i>	Agreement Number	<i>Agreement Number</i>
Agreement Start Date	<i>Start Date of Agreement</i>	Agreement End Date	<i>End Date of Agreement</i>
Reporting period start date	<i>Start Date of the Reporting Period covered in this APA</i>	Reporting period end date	<i>End Date of the Reporting Period covered in this APA</i>
Total Value	<i>\$AUD</i>	Country/Region	<i>Country / Region Name</i>
Report drafted by	<i>Name</i>	ARF Classification	<i>Professional Discipline/Job Category</i>
Approved by	<i>Counsellor / Director Name</i>	Date approved	<i>Date Approved</i>

Australian Aid – Rated Performance Criteria

Rate each statement using the following six point scale as a guide.

Satisfactory		Less than satisfactory	
6	Very good; satisfies criteria in all or almost all areas	3	Less than adequate; on balance does not satisfy criteria but does not fail in any major area
5	Good; satisfies criteria in most areas	2	Poor; does not satisfy criteria in major areas
4	Adequate; on balance satisfies criteria; does not fail in any major area	1	Very poor; does not satisfy criteria in many major areas

1) Deliver Lasting Results and Impact – Is the adviser achieving the agreed deliverables?

a) Achieves results and delivers on time; ensuring deliverables are of high quality, accurate and meet the defined requirements.	1 5	2 6	3	4
--	--------	--------	---	---

**Part 3 – DRAFT CONTRACT
SCHEDULE 10
APTC RFT**

b) Progress in capacity building and knowledge transfer to key counterpart(s), as per the defined requirements	1 5	2 6	3	4
c) Demonstrates effective leadership and management, as per the defined requirements	1 5	2 6	3	4
Supporting evidence is <u>required</u> if a rating of 3 or below or 6 is given (no more than 300 words).				

2) Demonstrated effective, ethical, efficient and economical use of resources – Does the adviser demonstrate Value for Money principles in their approach to the defined requirements?

a) Delivers defined services within budget.	1 5	2 6	3	4
b) Applies lessons learnt to enhance value for money.	1 5	2 6	3	4
Supporting evidence is <u>required</u> if a rating of 3 or below or 6 is given (no more than 300 words).				

3) Collaboration, Communication and Responsiveness – Does the adviser work collaboratively, communicate effectively with stakeholders and respond effectively to emerging issues?

a) Demonstrates professional conduct and cultural sensitivity by communicating effectively, working collaboratively and building effective relationships.	1 5	2 6	3	4
b) Demonstrates appropriate flexibility and responsiveness to DFAT (and/or its implementing partner) and the Partner Government's requests.	1 5	2 6	3	4
c) Addresses problems/issues openly and constructively.	1 5	2 6	3	4
Supporting evidence is <u>required</u> if a rating of 3 or below or 6 is given (no more than 300 words).				

4) Risk Management – Does the adviser effectively manage risk and operate in a manner consistent with DFAT policies?

a) Effectively manages risks and informs DFAT of any risks or issues that may adversely affect timing, cost or quality of services.	1 5	2 6	3	4
---	--------	--------	---	---

**Part 3 – DRAFT CONTRACT
SCHEDULE 10
APTC RFT**

b) Takes appropriate account of DFAT policies including on Child protection, Environmental and Resettlement safeguards; Gender Equality and Disability Inclusive Development.	<div style="display: flex; justify-content: space-around;"> 1234 </div> <div style="display: flex; justify-content: space-around;"> 56 </div>
Supporting evidence is <u>required</u> if a rating of 3 or below or 6 is given (no more than 300 words).	

5) Other Contract Specific Measurable(s)

<i>[Add as required]</i>	<div style="display: flex; justify-content: space-around;"> 1234 </div> <div style="display: flex; justify-content: space-around;"> 56 </div>
Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words).	

<i>DFAT Representative</i>	<i>DFAT Partner Representative</i>	<i>Adviser</i>
Name:	Name:	Name:
Signature:	Signature:	Signature:
Date:	Date:	Date: