

## **Request for Tender: Review of the National Mediator Accreditation System**

The Mediator Standards Board invites interested parties to submit tenders for the review of the National Mediator Accreditation System (NMAS) described in the attached Information for Tenderers.

### **CONTACT FOR FURTHER INFORMATION**

Tender enquiries are to be initially directed to:

Ms Jenny Watson, MSB Secretariat, [info@msb.org.au](mailto:info@msb.org.au), 03 9005 1903

**CALL DATE:** 20 February 2020

**TENDERS CLOSE** at 2.00 pm on 30 April 2020 electronically by email to , Ms Jenny Watson, Secretariat Officer, Mediator Standards Board; Email: [info@msb.org.au](mailto:info@msb.org.au)

**INFORMATION FOR TENDERERS:** see the attached “Information for Tenderers” which will provide further information about the tendering and evaluation of tenders processes.

## **INFORMATION FOR TENDERERS**

### **1. BACKGROUND**

- 1.1 The MSB is responsible for the ongoing development and maintenance of the National Mediator Accreditation System (NMAS) introduced in 2008. The MSB's Objectives are to:
- a. develop, maintain and amend the NMAS, which includes the Approval Standards and the Practice Standards (the Standards).
  - b. oversee the application of the Standards with a view to achieving consistency, quality and public protection regarding mediation services and mediation training.
  - c. support, complement and encourage members in their quest to meet their objectives in relation to the Standards.
  - d. ensure that training and accreditation of mediators continues to develop.
  - e. require records to be maintained of mediators who are accredited under the Standards and facilitate access to mediators who have national accreditation.
- 1.2 In pursuance of its objectives the MSB seeks to review the NMAS, including the Approval and Practice Standards thereof, pursuant to paragraph 3(a) of the MSB Constitution and Part VI of the Standards. This review will include a consideration of the incorporation of conciliation or other processes into the NMAS.
- 1.3 The MSB has resolved that this review be sourced out to external consultants who have relevant research experience who will report back to the MSB and will be part of and follow a 6 part process as described below.
- 1.4 The review shall evaluate the effectiveness of the NMAS and consider what changes and additions need to be made to it. It shall include a review of comparative international regulatory dispute resolution systems and survey of Registered Mediator Accreditation Bodies (RMAB) and through them accredited mediators: see Paragraph 2 below. The successful tenderer will provide a description of their proposed methodology as part of the tender application.

### **2. Process**

- 2.1 The MSB has resolved that a 6 part process be employed to review the NMAS as follows:

Part 1: A review of the existing NMAS by the successful tenderer to ensure compatibility with existing public documents including the MSB website; and

Part 2: All RMAB's and through them accredited mediators be surveyed by the successful tenderer to ascertain what suggested amendments they would like to suggest to the NMAS;

Part 3: A Report, including an annotated draft of the new NMAS, be prepared by a date to be specified in consultation with the successful tenderer, which will then be used as the basis for presentation to RMAB's;

Part 4: The successful tenderer prepare a final draft to be presented to the MSB within two months of the completion of Part 3.

Part 5: The MSB, with the assistance of an external facilitator consider and finalize the final draft of the NMAS to be adopted.

Part 6: That the new NMAS be formally adopted by the MSB and notified to the RMABs and accredited mediators within 6 months of the meeting referred to in Part 3.

- 2.2 Parts 1-4 of the above process shall be the principal concern of the tenderer and form the significant basis of their tender submission.
- 2.3 A reference group could be established to assist in this review as agreed with the successful tenderer.
- 2.4 This review will include:
- i) a consideration of the incorporation of conciliation or other processes into the NMAS;
  - ii) consideration of provisions that take account of indigenous mediator needs and requirements.

### **3. Tendering Rules**

- 3.1 This tendering process does not give rise to or amount to a contract whether a tender is submitted in response to this Invitation or not. After considering any responses submitted in accordance with this tender invitation the MSB will decide whether or not to enter into negotiations with one or more preferred tenderers.
- 3.2 If the MSB considers it necessary, it may conduct briefings in relation to this process.
- 3.3 The MSB will advise in the Invitation if the tenderers attendance at a briefing (usually by electronic means) is a prerequisite for submitting compliant tenders.
- 3.4 The MSB may also require a tenderer to answer further questions for the purpose of examining and understanding the requirement prior to tendering.

- 3.5 Tenderers may seek clarification of any matters relating to this Invitation by directing enquiries to the Contact Persons.
- 3.6 The MSB reserves the right to inform all tenderers of any question or matter raised and the response given but may at its discretion choose not to do so.

#### **4. FORMAT OF TENDERS**

- 4.1 The MSB expects that the tender will be appropriately endorsed by an authorised officer of the tenderer, with any alterations, measures or prices clearly and legibly stated and any alterations initialled and will;
- i) will quote prices that are inclusive and, in relation to GST, will state where the GST is applicable and shall show that amount separately;
  - ii) where paper copies are requested, this will comprise one hard copy and one copy in an electronic format; and
  - iii) a tender will be considered to have been delivered when actually received at the address specified in Invitation to Tender, whatever the mode of delivery. Tenders may be posted, but tenderers take the risk of any loss or delay in the course of the post.

4.2 The MSB will accept joint tenders and reserves its right to invite a joint tender from two or more tenderers.

4.3 If a tenderer submits a tender in conjunction with any other person, or with the intention of acting, in future, in conjunction with any one or more persons (“group members”) in relation to this process the following applies:

4.2.1 The MSB expects that a tenderer will provide a description of the proposed legal structure and/or relationships that are proposed between tenderers and group members; and

4.2.2 The MSB expects that tenderers will nominate one person as the preferred contact person for their group and all group members.

#### **5. PRESENTATION BY THE TENDERERS**

5.1 The MSB may request presentations by tenderers, where appropriate, of your bid but need not make the same request of all tenderers.

#### **6. PROBITY**

6.1 The MSB expects that you will:

- 6.1.1 declare any actual or potential conflict of interest;
  - 6.1.2 not seek to employ or engage the services of any person who has a duty to the MSB as an adviser, consultant or employee (or former adviser, consultant or employee) in relation to this process;
  - 6.1.3 not collude with any potential tenderer unless as part of a joint tender process;
  - 6.1.4 comply with all laws in force in Australia applicable to the process including the Australian Consumer Law.
  - 6.1.5 disclose whether acting as agent, nominee or jointly with another person and disclose the identity of the other person;
  - 6.1.6 not make any news releases or responses to media enquiries and questions pertaining to this process without the MSB's written approval.
- 6.2 If you act contrary to these expectations, the MSB reserves the right (regardless of any subsequent dealings and without providing reasons) to:
- 6.2.1 terminate negotiations;
  - 6.2.2 terminate consideration of your bid; and
  - 6.2.3 terminate any contract between you and the MSB in relation to the Project without any obligation on the MSB to make any payment to you.

## **7. RESERVATION OF RIGHTS**

- 7.2 The MSB reserves the right to:
- 7.2.1 invite any person or entity to submit a bid;
  - 7.2.2 extend the bid closing date;
  - 7.2.3 vary the parts of the project at any time, subject to the MSB first giving each tenderer the opportunity to respond to the variations;
  - 7.2.4 allow a tenderer to change its bid before the completion of evaluation of tenders, but only if the same opportunity is given to all tenderers;
  - 7.2.5 consider a bid submitted other than in accordance with these Tender Rules;
  - 7.2.6 consider an incomplete bid;
  - 7.2.7 exclude from consideration a bid that has not been submitted by the Closing Time;
  - 7.2.8 clarify any aspect of a bid after the closing date;
  - 7.2.9 make enquiries of any person or entity to obtain information about the tenderer and its bid;
  - 7.2.10 seek information from any tenderer;

- 7.2.11 following evaluation of bids, invite revised bids from one or more tenderers;
- 7.2.12 following evaluation of bids, negotiate with one or more tenderers;
- 7.2.13 negotiate with a tenderer for the provision of any part of the requirement, and to negotiate with any other tenderer with respect to the same or other parts of the requirement, and to enter into one or more contracts for all or any part of the requirements;
- 7.2.14 enter into negotiations with any other person or entity who is not a tenderer;
- 7.2.15 discontinue negotiations at any time with any tenderer; and
- 7.2.16 propose revised or replacement contract terms at any stage in this procurement process in substitution for, or in addition to, the terms and conditions included.

## **8. MSB EXPECTATIONS**

8.1.1 The MSB expects that if you submit a bid you have the necessary skills, knowledge and experience to comply with the Tender requirements;

- 8.1.1 you have fully informed yourself of all facts and conditions relating to this process and the Tender process; and
- 8.1.2 all prices/costs submitted will be fixed (unless otherwise specifically indicated).

## **9. TENDERERS' EXPECTATIONS**

- 9.1 Tenderers can expect that the MSB will:
- 9.1.1 preserve the confidentiality of your confidential information (subject to necessary administrative requirements and the confidentiality requirements outlined in paragraph 11 below);
  - 9.1.2 afford every tenderer the opportunity to compete fairly;
  - 9.1.3 subject to the MSB's right to terminate this process, consider a bid which is submitted in accordance with these requirements by a tenderer who has:
    - 9.1.4 complied with the MSB's expectations as to probity;
    - 9.1.5 provided the information required in this stage of the process as set out in this Invitation and co-operated with these requirements and submitted its bid by the Closing Time.

## **10. ACCEPTANCE OF TENDER**

- 10.1 The MSB is not obliged to accept any tender.
- 10.2 If the MSB does accept a tender it is not obliged to accept the lowest priced tender.
- 10.3 The MSB may consider or accept (at the MSB's sole discretion) any tender including without limitation a late tender.
- 10.4 No acceptance of a tender nor any invitation to negotiate or to make an offer will be effective to constitute a contract or to create any legitimate expectation on the part of the tenderer unless a formal written contract is executed by both parties.
- 10.5 Notification to a tenderer that it is the preferred tenderer will not constitute an acceptance of the tender but an invitation to negotiate.

## **11. CONFIDENTIALITY**

- 11.1 You and the MSB may disclose information to any consultant engaged for the purpose of this process if the consultant is required to preserve the confidentiality of that information.
- 11.2 Information supplied by or on behalf of the MSB is confidential to the MSB and you are obliged to maintain its confidentiality.
- 11.3 The MSB understands the need to keep commercial matters confidential in appropriate circumstances but reserves the right to disclose some or all of the contents of your bid and related information: if required to do so by a legal requirement.

## **12. COPYRIGHT**

- 12.1 By submitting a bid, you will be taken to:
  - 12.1.1 license the MSB to reproduce for the purposes of this process the whole or any portion of the bid despite any copyright or other intellectual property right that may subsist in the bid; and
  - 12.1.2 transfer ownership in the documents and any other materials constituting the bid to the MSB.

## **13. REPRESENTATIONS**

- 13.1 The MSB makes no promise or representation that any factual information supplied in or in connection with this process is accurate. The information is provided in good faith. Tenderers may request the

Contact Person to address the degree of accuracy that can be expected of particular items of information<sup>15</sup>.

#### **14. COST OF PREPARATION OF BIDS**

- 14.1 Tenderers are responsible for the cost of preparing and submitting a bid and all other costs arising out of the process unless otherwise provided

#### **15.. THE TENDER CONTENT**

- 15.1 The Tenderer's submission must respond to those matters outlined in paragraph 2.
- 15.2 A schedule of fees and costs to be charged based upon the first four parts of the project as outlined in paragraph 2. Each part must be separately costed and payment will be made in advance for each part and the next payment made upon an agreed schedule and subject to the completion of each part.

#### **16. ASSESSMENT OF TENDERERS**

- 16.1 Tenders will be evaluated in accordance with the following criteria and weightings.

Demonstrated knowledge, expertise, experience, and track record	25%
Accessibility of the nominated research personnel	20%
Approach/methodology for the tasks	25%
Price	25%
Other	5%

- 16.2 The above is a summary of the major elements and is not meant to be exhaustive. Other relevant factors may be taken into account in the selection of the successful Tenderer.