Commitment Approval Minute

The form is set out so that minimal editing is required to the covering minute, with most content to be inserted into the attachments to facilitate completion of the right information.

To: Carita Davis, Assistant Secretary, Population Health Division

COMMITMENT APPROVAL TO ENGAGE ALLEN AND CLARKE CONSULTING PTY LTD FOR REVIEW OF THE MARKETING IN AUSTRALIA OF INFANT FORMULAS: MANUFACTURERS AND IMPORTERS AGREEMENT (MAIF AGREEMENT) PH21/11013

RECOMMENDATIONS:

APPROVE the contract with Allen and Clarke Consulting Pty Ltd for the provision of consultancy services, using the Management Advisory Services panel and SON 3751667(**Attachment A).**	APPROVED / NOT APPROVED
APPROVE expenditure for a total of up t[s47D] GST Inclusive) under Section 23(3) of the *Public Governance, Performance and Accountability Act*	APPROVED / NOT APPROVED
SIGN the Letter of Offer to Allen and Clarke Consulting Pty Ltd	SIGNED / PLEASE DISCUSS
NOTE the Indigenous Procurement Policy mandatory set-aside does not apply to this procurement (**Attachment B**).	NOTED / PLEASE DISCUSS
NOTE the **approved** Evaluation Report OR Value for Money assessment (**Attachment C**).	NOTED / PLEASE DISCUSS
NOTE the Beyond Forward Estimates approval is not applicable.	NOTED / PLEASE DISCUSS
CONFIRM the information provided in this commitment approval has fully addressed the Delegate's Checklist before exercising a delegation to approve the commitment of funds - PGPA Act Section 23 (3) - or enter into an arrangement - PGPA Act Section 23 (1). Delegates need to assure themselves that the procurement is compliant and documented (**Attachment D**).	CONFIRMED / PLEASE DISCUSS
NOTE the contract will be sent to Allen and Clarke Consulting Pty Ltd for signature upon your approval of this minute.	NOTED/PLEASE DISCUSS
NOTE the services provided are considered to be consultancy services and will be reported as such.	NOTED / PLEASE DISCUSS
NOTE the commitment approval will work-flow to you via SAP ESS for online approval.	NOTED / PLEASE DISCUSS

Prepared by:

[s22]
.....
Assistant Director
Nutrition Policy Section
Preventive Health and Food Branch
12 December 2022

Approved by:

[s47F]
.....
Carita Davis
Assistant Secretary
Preventive Health and Food Branch
Population Health Division
12 December 2022

1. BACKGROUND/CONTEXT

The Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) has been in place since 1992 as a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia. The purpose of the review is to examine whether the MAIF Agreement remains effective in its aims. Consideration will be given to whether Australia has in place sufficient regulatory practices to ensure breast-milk substitutes are not promoted to the public, and that caregivers have adequate information about safe use of infant formula. The review will also take into consideration relevant contemporary policy issues and whether alternate regulatory approaches need to be considered.

In-scope aspects of program:

- Agreed Terms of Reference for the MAIF review
- All aspects of the MAIF Agreement in its entirety
- MAIF Complaints Committee and Secretariat, Complaints processes
- Types of complaints and levels of compliance

Context or related activity that needs to be considered:

- Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement 2021.
- Australian National Breastfeeding Strategy 2019 and Beyond
- Previous reviews of the MAIF processes in 2017 and 2012

2. PROCUREMENT METHOD

This procurement was through a competitive process (2 or more suppliers) under an existing panel arrangement and is therefore not subject to Division 2 of the Commonwealth Procurement Rules (CPRs). However, the requirements of CPRs Division 1 – Value for Money have been applied.

3. INDIGENOUS PROCUREMENT POLICY - MANDATORY SET-ASIDE (MSA)

IPP Checklist concluded MSA does not apply: The IPP Mandatory Set-aside does not apply to this procurement (**Attachment B**).

4. OUTCOME OF EVALUATION / VALUE FOR MONEY

The Evaluation Team completed individual evaluation worksheets and then discussed strengths and weaknesses of each proposal. The committee agreed to calculate consensus scores by taking the average of individual scores and then checking to ensure the resulting consensus scores reflected committee discussion. A Value for Money (VFM) assessment was conducted, and the findings of this analysis outlined Allen + Clarke Pty Ltd to have the lowest (best) score. The Evaluation Team recommends Allen + Clarke Consulting Pty Ltd be selected as preferred tenderer and offered a contract; and that the tenders submitted by s47G be declined after a contract is executed, as per approved Evaluation report (**Attachment C**).

TIMEFRAME

The contract term is for a period of six months from execution until 30th June 2023.

Two optional extensions of six months duration have been included in the draft contract. Any extension of the services contract will be at the sole discretion of the Commonwealth and subject to a separate commitment approval.

5. CONTRACTUAL ARRANGEMENT

The appropriate form of contract has been prepared (**Attachment A**) based on standing offer panel work order/official order.

Unsuccessful compliant submissions will be advised when a contract has been executed with the successful supplier.

Contract Manager
The nominated Contract Manager for this arrangement will b[s22] Nutrition Policy Section, Preventive Health and Food Branch.

6. EXPENDITURE APPROVAL AND FUNDS AVAILABILITY

The cost to the Department for the services is up to [s47D] GST Inclusive). This is within your delegation limit under the Accountable Authority Financial Delegations Schedule 1, Table 1, Item 132, to approve proposals to commit relevant money up to $200m.

The Finance Business Partner has confirmed that funds will be made available from the nominated Administered funds. [s47E(d)]

7. GENERAL

Risk Management
The risk profile developed as part of the Procurement Plan has been reviewed. The risk profile remains Low. There are no conflict of interest issues that have been raised throughout the process. Any significant risks and mitigations identified will be advised to the delegate.

Internal Reporting Requirements
Under the Department's Procurement Processing and Management policy, contracts must be registered within 5 business days of execution.

External Reporting Requirements
The contract will be reported on the Department's website in accordance with the Senate Order requirements of July 2001 (Murray Motion). As the contract is a valued over $10,000 it will be reported on AusTender within 42 days of entering into the contract, in line with the Commonwealth Procurement Rules (Division 1, Item 7, Reporting arrangements).

Documentation
The documentation is held on TRIM File PH21/11013. All relevant documentation leading up to the contract has been filed in accordance with Corporate Business Rule 2: Information Management and Record Keeping.

8. COMPLIANCE WITH FINANCIAL AND PROCUREMENT POLICIES

This procurement was conducted in accordance with the Department's financial and procurement policy framework (Delegate's Checklist).

Attachments:
A. Contract
B. Indigenous Procurement Policy
C. Evaluation Report
D. Delegate's Checklist

Schedule 6 – Order for Service

1. Introduction

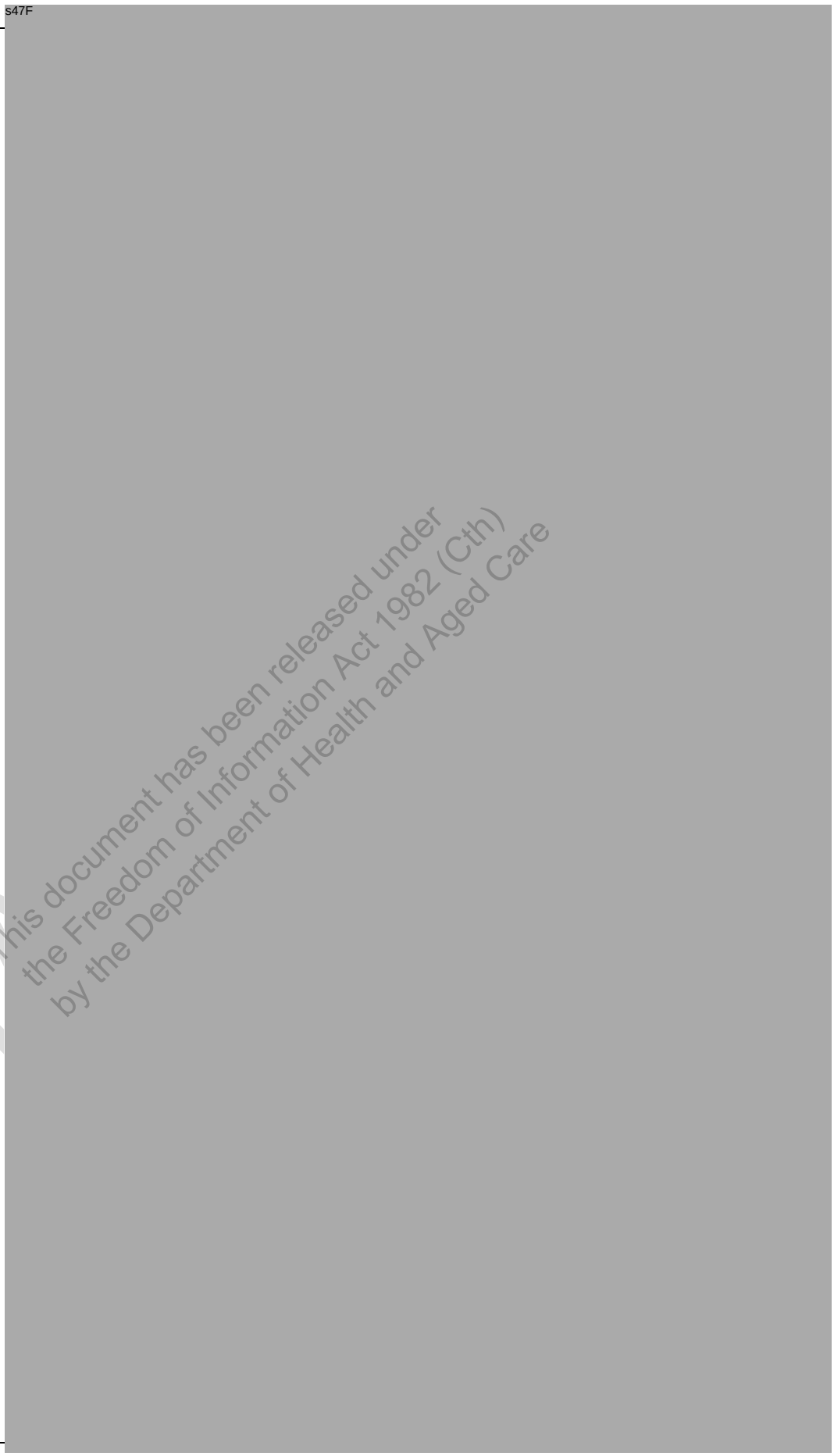
1.1. This Order is issued in accordance with clause 11.3 of the Head Agreement for the Management Advisory Services (MAS) Panel Standing Offer Notice (SON3751667) between the Service Provider and the Department of Finance.

Order for Services	
Service Provider Information	
Service Provider	Allen and Clarke Consulting Pty Ltd
Australian Business Number	66 632 186 059
Service Provider Representative	**Contact:** s47F **Position:** Managing Partner Australia **Email:** s47F @allenandclarke.com.au **Phone:** s47F
Service Provider Address for Notices	**Contact:** s47F **Position:** Managing Partner Australia **Address:** Suite C Level 17/600 Bourke Street, VIC 3000 AUSTRALIA **Email:** s47F @allenandclarke.com.au
Agency Information	
Agency/Customer	Department of Health and Aged Care
Australian Business Number	83 605 426 759
Agency Representative	
Agency Representative	**Name:** s22 **Position:** A/g Director **Email:** s22 @Health.gov.au **Phone:** s22
Agency Address for Notices	**Address:** GPO Box 9848, CANBERRA, ACT, 2601 **Email:** s47E(d) @health.gov.au
Agency Address for Invoices	Invoices must be submitted to s47E(d) @health.gov.au and s47E(d) @concursolutions.com.
Agency order information	
Purchase Order Number	TBC
Cost Centre	s47E(d)
Agency contract manager name	s22
Agency File Reference	TRIM # PH21/11013
Order Commencement Date and Term	
Order Commencement Date	Execution of this Order for Services
Order Expiry Date	Friday, 30 June 2023

Proposed options to extend	**Extension 1:** Six months **Extension 2:** Six months
Statement of Work	
Service Area	Commercial Management Advisory Services
Service Category	Government Policy
Service Sub-category	Policy Development and Analysis
Detailed Statement of Work	The Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) has been in place since 1992 as a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia. The purpose of the review is to examine whether the MAIF Agreement remains effective in its aims. Consideration will be given to whether Australia has in place sufficient regulatory practices to ensure breast-milk substitutes are not promoted to the public, and that caregivers have adequate information about safe use of infant formula. The review will also take into consideration relevant contemporary policy issues and whether alternate regulatory approaches need to be considered. The Review has the following objectives: • Assess the effectiveness of the MAIF Agreement in achieving its aims. • Consider contemporary policy issues for infant formula and toddler milk. • Determine whether the voluntary, self-regulatory approach remains fit for purpose or if alternative regulatory models should be considered. • Assess the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. • Any other related matters as deemed appropriate. **Key Review questions:** • Is the MAIF Agreement effective in achieving its aims? Including protecting and promoting breastfeeding and restricting inappropriate marketing of breastmilk substitutes; ensuring proper use of breastmilk substitutes when they are necessary; and ensuring the provision of adequate information about infant formula products for carers of formula fed infants through appropriate marketing and distribution. • Is the scope of the MAIF Agreement appropriate in the current policy environment? Including: range of products captured and how they are defined (including age range for products), issues concerning cross-promotion of products; range of companies/businesses captured by the Agreement - including the possibility of expanding the agreement to retailers and capturing all manufacturers, importers and exporters; and the ability of the MAIF Agreement to respond to all forms of modern marketing techniques including use of all forms of digital marketing (including, but not limited to internet and social media). • Are the MAIF Agreement processes appropriate? Including: the complaints process, transparency and timeliness of decision-making and reporting; the operation of the MAIF Complaints Committee and secretariat; the composition of the committee, including appropriate membership and appointments process; and types of complaints and levels of compliance. • Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models? What are the benefits, costs and any

	limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes? **In-scope aspects of program:** • Agreed Terms of Reference for the MAIF review • All aspects of the MAIF Agreement in its entirety • MAIF Complaints Committee and Secretariat, Complaints processes • Types of complaints and levels of compliance (e.g. social media posts, advertisements in newspapers or posters). • Any context or related activity that needs to be considered: • Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement 2021. • Australian National Breastfeeding Strategy 2019 and Beyond • Previous reviews of the MAIF processes in 2017
Milestones	s47G [redacted]

s47G

Key Personal	s47F 

	s47F [redacted]
Subcontractors	
Location	No specific location is required.
Fees	Proposed fee schedule of *fixed fees and charges*:

Due Date	Milestone Description	Payment Amount (GST exclusive)	GST	Payment Amount (GST inclusive)
s47G [redacted]	Project and Risk Management Plan	s47G [redacted]		
	Summary findings of desktop analysis and literature review			
	Consultation summary of findings			
	Final Evaluation Report			

	s47G [redacted]
Payment Terms	Progress payments of the *Fixed Fees and Charges* (inclusive of any GST and all taxes and charges) will be made as follows: • The Customer must pay the amount of a Correctly Rendered Invoice to the Service Provider within twenty (20) calendar days after receiving it, or if this day is not a business day, on the next business day.
Invoicing	As per the MAS Panel Head agreement, tax invoices must include: • information required by law; • payment terms and payment details; • a description of the Services to which the invoice relates; • itemised amounts payable (broken down by type); and • the purchase order number which will be supplied by the Agency
Travel	As outlined in the Fees above, the service provider will be reimbursed for a maximum of s47G [redacted] in travel costs. Travel costs must be clearly documented, for the purposes of this Order of Service and invoiced corrected, as outlined in Invoicing above.
Agency Material	As requested by the Service Provider and as deemed appropriate by the Customer, the Customer will provide access to the Customer's Material for the purpose of this Contract. All the Customer's Material provided to the Service Provider should be regarded as confidential information (unless it is available in the public domain) and should only be used to fulfil the purposes required under this Contract The following existing data and information will be made available to the Panellist: MAIF Agreement, Reports on the previous reviews of the MAIF Agreement and the MAIF complaints process, Data and information regarding recent complaints received, the Australian National Breastfeeding Strategy 2019 and Beyond and related consultation report (2019), the Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement report (2021), available published literature on breastfeeding, formula feeding, marketing of breastmilk substitutes, and related research
Existing Material	As requested by the Service Provider and as deemed appropriate by the Customer, the Customer will provide access to the Customer's Material for the purpose of this Contract. All the Customer's Material provided to the Service Provider should be regarded as confidential information (unless it is available in the public domain) and should only be used to fulfil the purposes required under this Contract
Contract Material	Contract material refers to deliverables under this Order for Services. Contract materials must be provided to a satisfactory level, agreed upon by the Agency. The following deliverables will be public facing documents which will need to comply with web content accessibility standards: • Project Plan and Risk Management Plan • Consultation paper to support stakeholder consultation • Report – Results of Stakeholder consultation • Final Evaluation report

	Web Content Accessibility: The Service provider must ensure that the deliverables listed above and any website, associated material and/or online publications (where applicable) complies with the Web Content Accessibility Guidelines available at: https://www.w3.org/WAI/intro/wcag.
Reporting requirements	As outlined in the Milestones above, the Service provider will be required to provide regular Progress Updates, in the form of both written and face-to-face updates as agreed. As per Clause 9 of the MAS Panel Head Agreement: • The Service Provider must, if requested by Finance, provide written verification of the accuracy of any reports delivered. • The Service Provider agrees to provide an Agency with any other reporting Additional Requirements specified in an Order and any other reporting reasonably required by the Agency in association with a Contract
Restrictions on use of Contract Material	The Service Provider must not seek to impose any limitation or restriction on Customer's use of the Contract Material, as per clause 20.2 of the MAS Panel Head Agreement. Refer to Clause 20 in the MAS Panel Head Agreement for information on Intellectual property rights.
Restrictions on use of Service Provider's name, trade name or logo	NIL
Additional requirements	
Confidential Information	**Agency Confidential information** Agency data, *Indefinitely* Any Personal Information held by the Agency, *Indefinitely* Security Classified Information, *Indefinitely*
Agency Data Storage Requirements	As per clause 23.2 of the MAS Panel Head agreement.
Security	As per clause 23 of the MAS Panel Head agreement.
Additional Requirements - security	This clause of the MAS Panel Head agreement has not been varied.
Conditions/Restrictions for Personal Information	As per clause 23.2.4 of the MAS Panel Head Agreement: Without limiting its obligations under this clause 23 of the MAS Panel Head Agreement, the Service Provider must comply with any additional security requirements notified by Health from time to time.
Additional or alternate Requirements - insurance	This clause of the Head Agreement has not been varied. The Service Providers current insurance information in accordance with the requirements of Clause 18 of the Head Agreement (either requested or provided in RFQ response) can be entered here, to confirm compliance when executing this Schedule 6 Order for Services.
Agency Service Levels	NIL
Relationships	As per clause 10 of the MAS Panel Head agreement, each party must:

	• diligently perform its obligations under this Order of Service and Head Agreement; and • work together in a collaborative manner in good faith. The Service Provider must: • comply with any reasonable written directions given by Health in respect of this Order of Service and MAS Panel Head Agreement; and • provide all reasonable assistance required by Health provided that the assistance requested is consistent with the Service Provider's obligations under this Order of Service and Head Agreement.
Commonwealth Procurement Connected Policy Requirements	
Black Economy Policy	Not Applicable
Indigenous Procurement Policy	Not Applicable
Australian Industry Participation Policy	Not Applicable
Variable Clauses of the Head Agreement	
Internal Working Papers	As per clause 20.4 of the MAS Panel Head Agreement:
Intellectual Property	As per clause 20 of the MAS Panel Head Agreement:
Key Personnel Requirements	This clause of the MAS Panel Head Agreement has not been varied. Personnel performing the Services may be required to sign a Deed and acknowledgements relating to confidentiality, security, moral rights, intellectual property and other relevant matters as required by the Agency.
Performance Management Framework	The performance management framework is outline in Schedule 7 of the MAS Panel Head Agreement. The Service Provider is expected to adhere to the performance requirements contained with this schedule. In particular, the service provider should note the following clauses in the MAS Panel Head Agreement in relation to quality, communication, and contract performance: **2.2. Quality** 2.2.1 The following Quality performance measures apply to the Head Agreement: (a) the capability and availability of Key Personnel; (b) documentation provided to high standard; and (c) the Services provided met the Agency needs, and requirements of the Order. **2.3. Communication** 2.3.1. The following Communication performance measures apply to the Head Agreement: (a) proactive and effective communication with the Agency; (b) responsiveness; and (c) Agency reference numbers included in all correspondence. **2.4. Contract Performance**

	2.4.1. The following Contract Performance measures apply to the Head Agreement: (a) understanding of the Agency's needs; (b) effective management of timelines; (c) effective budget management; (d) service provision managed diligently; and (e) reasonable assistance provided in respect of any inquiry concerning the Service Provider's performance of Ordered Services.
Return of confidential information	As per clause 22.6.3 of the MAS Panel Head Agreement: At the expiry or early termination of a Contract, unless instructed otherwise by the Agency and subject to clause 22.6.3, the Service Provider must immediately return all Agency Confidential Information in its possession or control to the Agency.
Liability	As per clause 19 of the MAS Panel Head Agreement .
Service Provider termination right	As per clause 26.2.3 of the MAS Panel Head Agreement: the Service Provider may terminate the Contract due to Agency non-payment of Fees, or if the Agency breaches a material provision and does not remedy this within 40 Business Days after receiving a notice to remedy.
Termination for convenience costs in relation to Fees for Services calculated on a milestone basis	As per clause 26.4.3(a) of the MAS Panel Head Agreement: where Fees in an Order are calculated on a milestone basis, the Agency will pay Fees for Ordered Services completed before the date of termination for convenience on a time and materials basis where the Service Provider can substantiate this.

Signed for and on behalf of Commonwealth of Australia as represented by the Department of Health and Aged Care 83 605 426 759

Carita Davis

name of authorised officer

s47F

Signature of authorised officer

Assistant Secretary

title of authorised officer

Signed for and on behalf of Allen and Clarke Consulting Pty Ltd,

s47F, on behalf of s47F

name of Service Provider's authorised representative

s47F

16 January 2023

Director Consulting

Signature of Service Provider's authorised representative

title of Service Provider's authorised representative

Indigenous Procurement Policy (IPP) Checklist

The Department of Health and Aged Care must comply with the Indigenous Procurement Policy. The IPP includes two policy elements in the form of:

1. a **mandatory set-aside** has been established (MSA) that gives Indigenous SMEs the chance to demonstrate value for money, before the procuring officer makes a general approach to the market. At Health, this mandatory set-aside applies to all remote procurements and all other domestic procurements where the estimated value of the procurement **at, or under $200,000 (GST inclusive)**, excluding procurements to which paragraphs 2.6 and 10.3 https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules/additional-rulesof the CPRs apply, procurements through a Whole-of-Government arrangement, and procurements where the purchase is made using an exemption to Appendix A of the CPRs.
2. **mandatory minimum requirements (MMR)** that include Indigenous participation targets mandated in high value contracts wholly delivered in Australia valued above $7.5 million in specified industry categories.

Section 1 - Mandatory Set-aside (MSA)	
Q1. Is your procurement being conducted under any of the following circumstances: • Mandatory Whole of Government Arrangement Enter the details of the arrangement: SON3751667 Whole of Government Panel • 10.3 (Conditions for limited tender) Enter the condition (e.g.: 10.3.d.iii): • Appendix A – Exemptions from Division 2 Enter Appendix A Exemption that applies: • 2.6: necessary for the maintenance or restoration of international peace and security, to protect human health, for the protection of essential security interests, or to protect national treasures of artistic, historic or archaeological value Approved by Accountable Authority (the Secretary): E21-146339	Yes ☒ No ☐
If you answered "**YES**" to Q1 and provided required details, the MSA does not apply. Proceed to **Section 2.**	
Q2. Is the procurement valued at, or under $200,000 (GST inclusive)? As a Supply Nation Member, our Department has committed on a best endeavours basis to identify and/or create business opportunities for Supply Nation certified Indigenous suppliers. Hence, the mandated threshold for procurements valued at, or under $200,000 (this valuation should also include any possible extension options). Please search for Indigenous suppliers on Supply Nation.	Yes ☐ No ☐
Q3. Will the majority (by value) of the goods/services be delivered in remote areas?	Yes ☐ No ☐
If you answered "**NO**" to both Q2 and Q3, the Mandatory Set-aside does not apply. Proceed to **Section 2**. If you answered "**YES**" to either Q2 or Q3, the Mandatory Set-aside applies and you must conduct a search for a suitable Indigenous supplier on Supply Nation and document the outcomes of that search in your Procurement Plan. Proceed to **Section 2**.	

Section 2 – Mandatory Minimum Requirements (MMR)	
Is the procurement valued over $7.5m (GST inclusive) and the majority of the value falls within one of the highlighted industry categories here?	Yes ☐ No ☒
If "**YES**" MMR clauses are required in your Approach to Market and contract documentation. Please contact Procurement Advisory Services.	

Updated September 2021

Australian Government
Department of Health and Aged Care

RFQ EVALUATION REPORT

Consultancy services for Review of the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement* (MAIF Agreement) under the Management Advisory Services Panel - SON 3751667 -

RFQ Health/PH21/11013

(TRIM Reference: E21-146339)

Delegate's approval ofthis Tender Evaluation Report:	☒ Approved ☐ Not approved
Name: _____	(please notate any comments/conditions)
Position:. _____	
	Signature: s47F
	Date 12/12/2023

Table of Contents

1. INTRODUCTION

1.1. Background

This is a report on the evaluation of request for quotation for the review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement for consultancy services.

The evaluation is the culmination of:

- Procurement Plan approved by Tracey Andrews A/g AS on 28th October 2022
- Quotation Evaluation Plan approved by Tracey Andrews A/g AS on 28th October 2022
- RFQ released on 31st October 2022
- Submissions closed on 14th November 2022 with the guidance of the Approach to Market Coordinator.

1.2. Purpose

This report seeks approval of the recommendations outlined in **Section 5 - Recommendations.**

2. MANAGING THE TENDERING PROCESS

2.1. Tendering Process

Over the period open for submissions:

- A total of seven suppliers from the Management Advisory Services Panel SON3751667 were approached via email distribution of the request for quotation document;
- No requests for clarification were received;
- No individually addressed clarification was issued; and no clarification questions were issued to the entire field of suppliers; and
- No Formal Addenda were required.

Copies of all communications during this period are retained on TRIM E22-341204.

2.2. Submissions Received

Four submissions were received electronically by the email contact at the closing time, from the following suppliers:

- Allen+ Clarke Consulting Pty Ltd
- s47G
-
-
-

Of the remaining suppliers that had been approached: s47G s47G eclined to submit a quotation.

No submissions were received late.

2.3. Screening and Compliance Issues

There were no screening and compliance issues associated with the 5 submissions received.

2.4. Variations from the Evaluation Plan

Nil

2.5. Integrity and Probity Issues

Nil

s47E(b) [redacted]

2.7. Evaluation Team

The Evaluation Team consisted of:

Name	Position Title	Branch and Division / Organisation	Role
Carita Davis	Assistant Secretary	Preventive Health and Food Branch, Population Health Division/Department of Health	Delegate - non-voting
s22 [redacted]	Director (A/g)	Preventive Health and Food Branch, Population Health Division/Department of Health	Evaluation Team Chair -voting
s22 [redacted]	Assistant Director	Preventive Health and Food Branch, Population Health Division/Department of Health	Evaluation Team member - voting
s22 [redacted]	Departmental Officer	Preventive Health and Food Branch, Population Health Division/Department of Health	Evaluation Team member - voting

3. DETAILED EVALUATION

3.1. Technical Evaluation

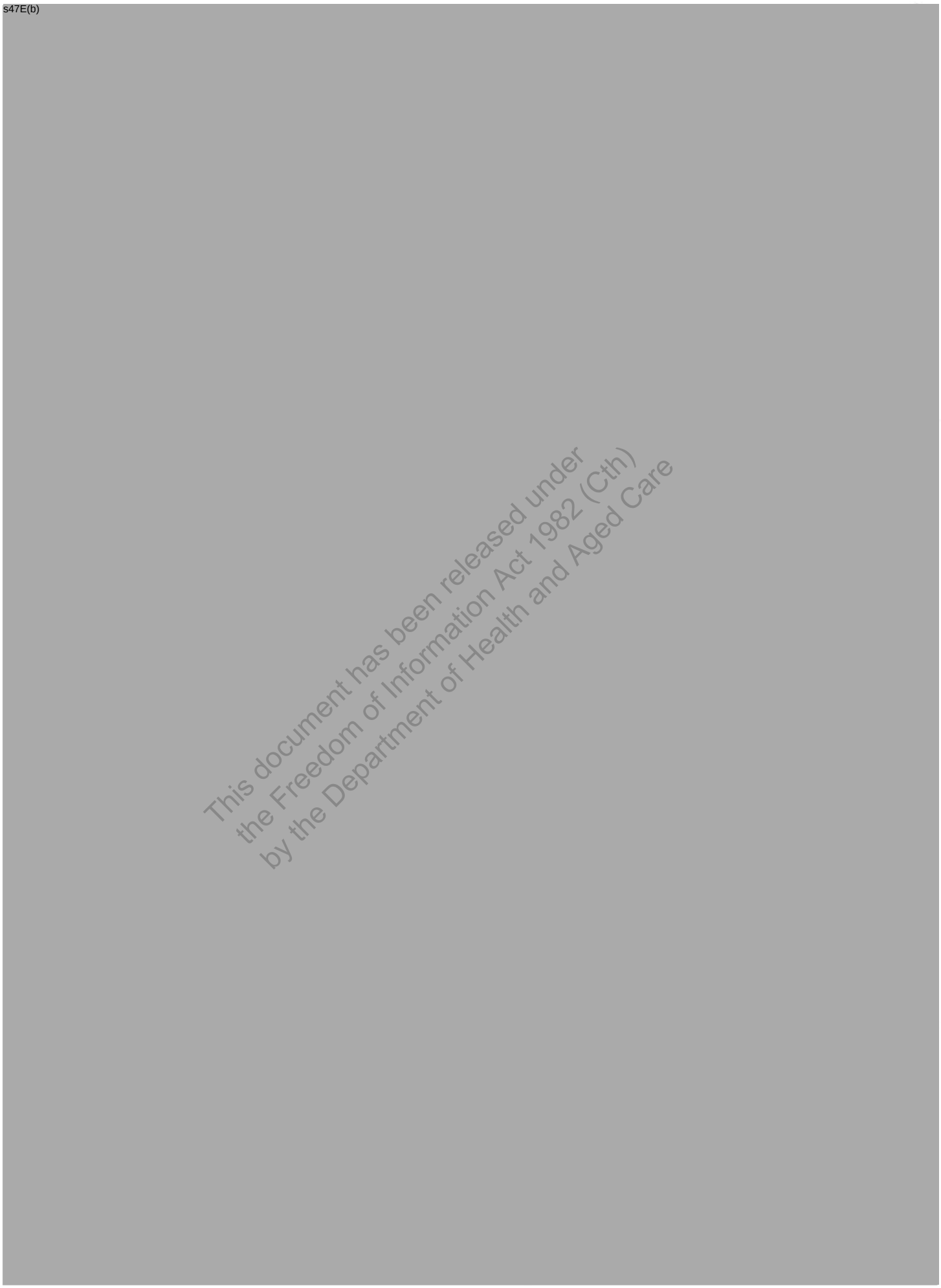
The committee completed individual evaluation worksheets and then discussed strengths and weaknesses of each proposal. The committee agreed to calculate consensus scores by taking the average of individual scores and then checking to ensure the resulting consensus scores reflected committee discussion. The table below shows the technical score for each supplier. See Quote Evaluation Assessment Scoring - Consensus worksheet for detailed comments D22-3686140.

OFFICIAL: SENSITIVE
COMMERCIAL

TENDERER'S NAME		Allen&Clarfce		s47G					
Criteria	Weighting	Raw Weight	Weighted Score =(/5)* weight	Raw Weight	Weighted Score = (/5)* weight	Raw Weight	Weighted Score = (/5)* weight	Raw Weight	Weighted Score = (/5)* weight
a. Project Scope b. Project plan c. Consultation plan d. Risk assessment	70	s47E(b)							
e. Experience/skills of personnel f. Availability of personnel and the time required.	20								
g. Quality of comparable projects h. Dependability	10								
TOTAL SCORE:	100.00								

s47E(b)

s47E(b)



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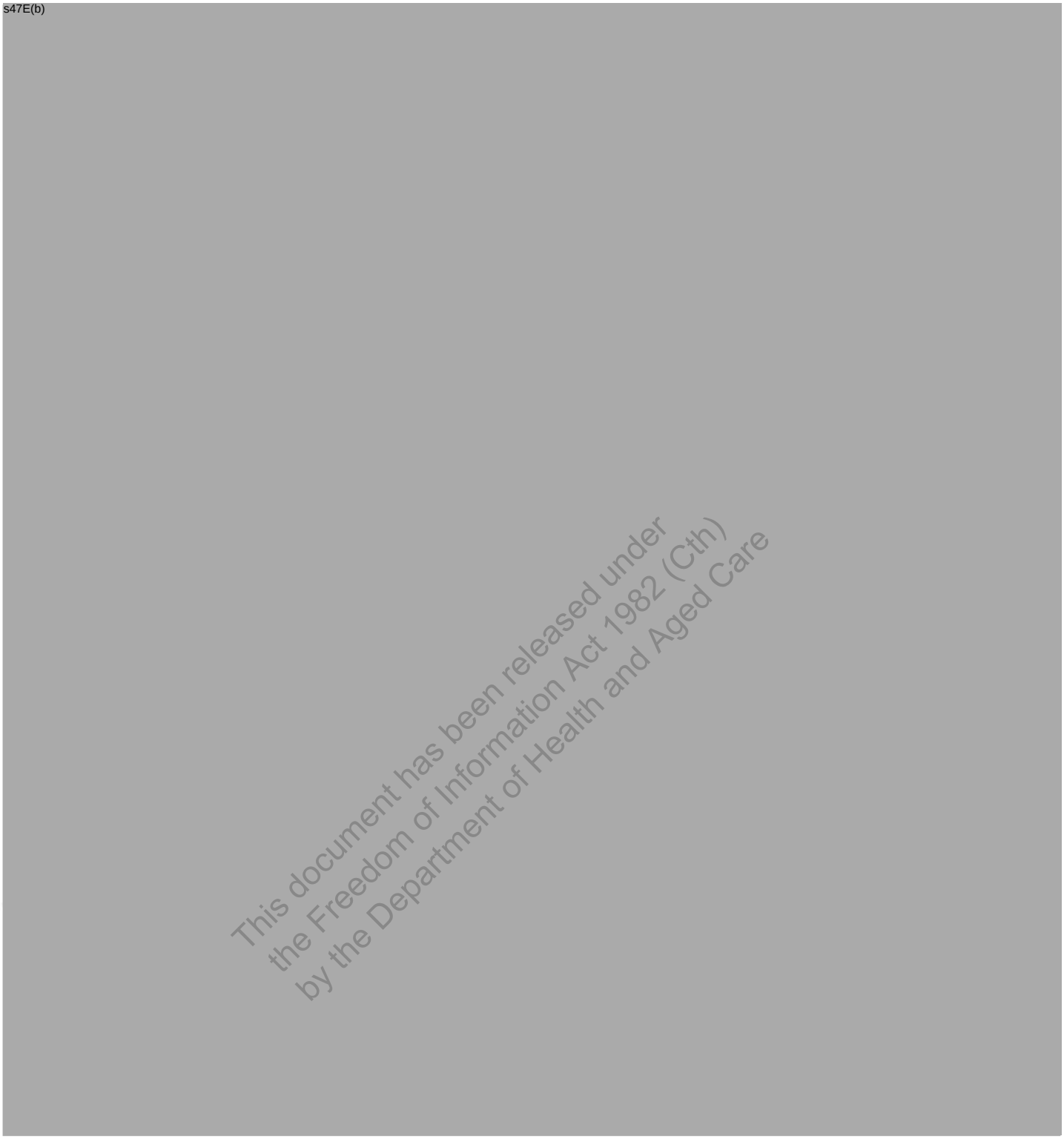

4. VALUE FOR MONEY ASSESSMENT

Achieving value for money is the core rule of the CPRs. Officials responsible for a procurement must be satisfied, after reasonable enquiries, that a procurement achieves a value for money outcome. When conducting a procurement, officials must consider the relevant financial and non-financial costs and benefits of the submission including, but not limited to:

- The quality of the goods and services
- Fitness for purpose of the proposal
- The potential supplier's relevant experience and history
- Flexibility of the proposal (including innovation and adaptability over the lifecycle of the procurement)

- Environmental sustainability of the proposed goods and services; and
- Whole-of-life-costs.

A Value for Money (VFM} assessment was conducted and the findings of this analysis are outlined below. The 'cost per qualitative score point' for each proposal were as follows, ordered from the lowest (best) score to the highest score:

Value for Money Calculation	Qualitative Assessment Score	Proposed Budget	Cost per Qualitative Score Point
Allen + Clarke	s47E(b)		
s47G			

4.1. Environmental Sustainability

Environmental sustainability assessment was not required for this procurement.

S. RECOMMENDATIONS

5.1. Engage a Supplier

The Evaluation Team recommends that:

- Allen + Clarke Consulting Pty Ltd be selected as preferred tenderer and offered a contract; and
- that the tenders submitted by s47G declined after a contract is executed.

It should be noted that the offer from the selected tenderer Allen+ Clarke Consulting Pty Ltd presents the Department with the following risk which has been included in the risk management plan with identified treatment strategies.

s47E(b)

OFFICIAL: SENSITIVE
COMMERCIAL

Name	Role	Signature	Date
s22 [redacted]	Chair	s22 [redacted]	06/12/2022
	Evaluation Committee Member		06/12/2022
	Evaluation Committee Member		

6. DECLARATION BY THE CHAIR OF THE EVALUATION TEAM

- I certify that this report accurately reflects the conduct of the evaluation process and the conclusions of the tender evaluation team members. The project file TRIM E22-343264 contains endorsement of the tender evaluation team members to this report and recommendation.
- The evaluation criteria in the approved Evaluation Plan was replicated to match the Request for Quotation (RFT/RFQ) documentation.
- Submissions received were evaluated strictly in accordance with the approved Evaluation Plan, using the approved evaluation criteria.
- This Evaluation Report has been examined by Procurement Advice Services (PAS) and any comments have been incorporated.

s22 [redacted]

Signature

Name: s22 [redacted]

Position: Evaluation Committee Chair

Date: 06 December 2022

s22 

Australian Government
Department of Health and Aged Care

Procurement Information for Delegates

Background

The Public Governance, Performance and Accountability Act 2013 (PGPA Act) is the cornerstone legislation of the Commonwealth Resource Management Framework.

The Commonwealth Procurement Rules (CPR's) are the keystone of the government's policy framework. The rules enable entities to design procurement processes that are robust and transparent while permitting innovative solutions that reflect the scale, scope and risk of the desired outcome.

Procurement encompasses the whole process of procuring goods and services. It begins when a need has been identified and a decision has been made on the procurement requirement.

Achieving value for money is the core rule of the CPR's. Officials responsible for procurement must be satisfied, after reasonable enquires, that the procurement achieves a value for money outcome.

Officials are required to undertake procurement and contracting activities in an efficient, effective, economical and ethical manner that achieves value for money in a whole-of-process way.

Health's Accountable Authority Instruction's (AAI) and applicable Finance Business Rules (FBR's) must be followed in all instances of procurement within the Department.

Procurement Thresholds

The procurement thresholds (including GST) are:

- for non-corporate Commonwealth entities, other than for procurements of construction services, the procurement threshold is $80,000;
- for Prescribed Corporate Commonwealth Entities, other than for procurements of construction services, the procurement threshold is $400,000; or
- for procurements of construction services by relevant entities, the procurement threshold is $7.5 million.

Procurements valued over the thresholds must be conducted through either an:

- Open Tender;
- Panel (either Whole of Government, Health or other agency); or
- Limited Tender (only when Division 2 and/or Appendix A of the CPR's can be satisfied).

The Procurement Method Decision Tree will help determine the appropriate method for your procurement.

A procurement must not be divided into separate parts solely for the purpose of avoiding a relevant procurement threshold. When the maximum value of a procurement over its entire duration cannot be estimated, the procurement must be treated as being valued above the relevant procurement threshold.

Relevant Links and Contacts

PGPA Act | CPR's | AAI's | FBR's | Procurement Intranet | ***Procurement Advisory Services (PAS) Section***
Contact PAS via phone on 02 6289 s47E(d) or email procurement.advice@health.gov.au

Attachment A - Key Considerations for Delegates

Before exercising a delegation to approve the commitment of funds - PGPA Act Section 23 (3) - or enter into an arrangement - PGPA Act Section 23 (1), Delegates need to assure themselves that the procurement is compliant and documented:

Checklist Item (To be completed by Procuring Official)	Checked
Approval documentation clearly identifies what is being procured, total cost and length of contract	☒ Yes ☐ No
Do I have the correct delegation to approve the requested expenditure	☒ Yes ☐ No
Is there sufficient budget available to commit expenditure for this procurement (Financial Business Partner confirmation) including expenditure beyond the current financial year?	☒ Yes ☐ No
Is the process undertaken compliant with PGPA, CPR's, AAI's and FBR's	☒ Yes ☐ No
If applicable, has the procurement process considered and applied a Whole of Government Panel	☒ Yes ☐ No ☐ N/A
If applicable, does the Indigenous Procurement Policy apply to the procurement, and if a suitable supplier cannot be identified has this been clearly documented. If your Planned procurement is estimated to be above $7.5 million you must consult procurement.advice@health.gov.au to ensure compliance to the policy.	☐ Yes ☒ No ☐ N/A
Identified an existing panel arrangement to provide the goods or services	☒ Yes ☐ No ☐ N/A
If a limited tender was undertaken, can the Limited Tender satisfy a condition for limited tender from CPR (10.3) or CPR Appendix A (over the relevant threshold)	☐ Yes ☐ No ☒ N/A
Have any probity issues (perceived or real) been considered, documented and mitigated	☒ Yes ☐ No
For all Covered Procurements (over $80,000 and covered by Div. 1 and 2 of the CPR's) you must ensure you comply with the requirements under the Government Procurement Judicial Review Act. 2018. Seek advice from PAS if you are unsure.	☒ Yes ☐ No ☐ N/A
If approval for PGPA Act Section 60 (indemnities/contingent liabilities) is required has it been documented and approval obtained, prior to Section 23 (3) approval	☐ Yes ☐ No ☒ N/A
Risk (WHS and procurement) has been considered and where necessary have put in steps to mitigate	☒ Yes ☐ No
The correct contract to procure the goods or services (for example Commonwealth Contracting Suite, panel Official/Work Order or ICT source contract) is being used	☒ Yes ☐ No
If required, has legal advice been obtained (for example review of changes to contractual terms and conditions)	☐ Yes ☐ No ☒ N/A
Has correctly assessed any applied requests to keep certain information within the resultant contract confidential	☒ Yes ☐ No ☐ N/A
Has Procurement Advisory Services (PAS) reviewed and endorsed the procurement process and associated documents	☒ Yes ☐ No ☐ N/A
Stored all relevant procurement documentation in TRIM	☐ Yes ☐ No

From: s47E(d)
To: s47F @allenandclarke.com.au; maif
Cc: s47F @allenandclarke.co.nz; s47F @allenandclarke.com.au
Subject: RE: Tender evaluation - review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement [SEC=OFFICIAL]
Date: Thursday, 24 November 2022 11:11:05 AM
Attachments: image002.png
image005.png
image006.png
image007.png

Dear s47F ,

Thank you for providing further details, as requested, in response to a request for quote for the *review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)*.

The information provided will be used to continue the evaluation phase of the procurement.

Kind regards,

MAIF Complaints Committee Secretariat team
Nutrition Policy Section

Population Health Division | Primary and Community Care Group
Preventive Health and Food Branch
Australian Government Department of Health and Aged Care
E: s47E(d) @health.gov.au
MDP 570, GPO Box 9848, Canberra ACT 2601, Australia

The Department of Health acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

From: s47F
Sent: Wednesday, 23 November 2022 5:07 PM
To: maif
Cc: s47F
Subject: RE: Tender evaluation - review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement [SEC=OFFICIAL]

Hi MAIF Team,

Thank you for the additional questions. Please find below our responses.

Our role in supporting the work of the New Zealand Ministry of Health?

- We have delivered complaints management services for the implementation of the WHO Code in New Zealand Aotearoa since 1 April 2017
- Our client is Te Whatu Ora Health NZ (the newly established national health agency). Previous to 1 July 2022 we supplied these services to Manatū Hauora/ NZ Ministry of Health. (for the purposes of clarity - we have never delivered services to the INC).
- Our current contract runs until 30 September 2024 (and we have had three extensions).
- We deliver the following services:
    - Monitoring the WHO Code in New Zealand inbox on behalf of Manatū Hauora.
    - Receipting and managing complaints made about manufacturers/marketers of infant formula products in New Zealand Aotearoa. Complaints are made under the Infant Nutrition Council Code of Practice for the Marketing of Infant Formula, which is a voluntary, industry Code owned by the Infant Nutrition Council (INC). Complaints made under the INC Code of Practice relate only to members of the INC

at the time the complaint is made.

1) We receive and log the complaint, check that the form is correctly completed (and seeking additional information from the complainant if not), forward the complete documentation to the CEO of the Infant Nutrition Council, receive the relevant responses (prepared by the INC member and returned to us via the CEO of the INC) and prepare papers for the WHO Code Compliance Panel (which hears the complaint).
2) Once the complaint is heard, we prepare the draft determination, manage the QA process, and circulate the determination to the complainant and the CEO of the INC (for forwarding to the subject of the complaint).
3) If an appeal to the determination is received, we manage the flow of information to support that appeal (ie, the complainant and subject of the complaint are notified of the appeal (again, via the CEO of the INC), paperwork is prepared and provided to the Independent Adjudicator, and then the final appeal documentation is returned to the complainant, the subject of the complaint and the WHO Code Compliance Panel and the complaint is closed).

- We have no direct engagement with INC members (ie, the manufacturers/marketers of infant formula products), just the CEO of the INC (currently s47F).

- Receipting and managing complaints made about health workers under the Health Workers' Code

1)) We receive and log the complaint, check that the form is correctly completed (and seeking additional information from the complainant if not), forward the complete documentation to the health worker (however defined), receive the relevant responses prepared by the health worker directly, and prepare papers for the WHO Code Compliance Panel (which hears the complaint).
2) Once the complaint is heard, we prepare the draft determination, manage the QA process, and circulate the determination directly to the complainant and health worker.
3) If an appeal to the determination is received, we manage the flow of information to support that appeal (ie, the complainant and health worker are notified of the appeal (directly), paperwork is prepared and provided to the Independent Adjudicator, and then the final appeal documentation is returned to the complainant, the subject of the complaint and the WHO Code Compliance Panel and the complaint is closed).

- Meeting management services for the WHO Code Compliance Panel including diary management, agenda and meeting paper preparation, attendance, minutes and actions drafting, register management and payment of honoraria.
- WHO Code Compliance Panel member appointment support services (noting that this process is led by Manatū Hauora, with members previously appointed by the Director-General of Health).
- Preparation of a thematic annual report, meeting summaries, etc. to support transparency of the WHO Code Compliance Panel's purpose.
- Policy support services (ad-hoc and as required by Manatū Hauora or as requested

by the WHO Code Compliance Panel).

- Stakeholder engagement is focused on:
  - We do not directly liaise or engage with the manufacturers/marketers of infant formula products (ie, members of the INC or others)
  - Complainants (usually members of the public although we once received a complaint from one manufacturer about the marketing activities of another manufacturer: these complaints are referred to the INC)
    - *Contact frequency is adhoc and depends on the individual complaint*
    - *We receive about 6 complaints per annum, most of which relate to the INC Code of Practice*
  - The CEO of the INC s47F INC operates both MAIF and the INC Code of Practice
    - *Contact frequency is adhoc and depends on the individual complaint*
    - *We receive about 6 complaints per annum, most of which relate to the INC Code of Practice*
    - *We meet* s47F *quarterly as part of the WHO Code Compliance Panel (although sometimes meetings are deferred if there is no business)*
  - WHO Code Compliance Panel members (a barrister, a consumer, an academic, and a medical practitioner who are all NZ-based and the CEO of the INC, who is Canberra-based
    - *The Compliance Panel meets quarterly (although sometimes meetings are deferred if there is no business), although there is out of session engagement with the Chair and members as needed to deliver on the Panel's business.*

Potential conflicts of interest?

We do not consider there are currently any potential conflicts of interest that would impact our ability to successfully complete the work as outlined in our proposal. We have extremely strong internal policies and procedures for identifying, assessing and mitigating conflicts of interest. These procedures including sharing potential conflicts of interest with the project lead for the Department as they arise and jointly agreeing the most appropriate mitigation strategy so that both parties can be comfortable that there will no impact on the work (and on the reputation of the Department or Allen + Clarke).

Please let me know if you would like any further information about either of our responses or any additional information to support the evaluation panel.

Kind Regards,

s47F

s47F
Managing Partner (Australia)
Ph. s47F
s47F @allenandclarke.com.au
Suite C, Level 17, 600 Bourke St, Melbourne 3000
www.allenandclarke.com.au

Allen + Clarke acknowledges the Traditional Custodians of the land we work on and the communities that we work with. We acknowledge their history, culture and Elders past, present and emerging.

From: s47E(d) @health.gov.au>
Sent: Tuesday, 22 November 2022 9:18 AM
To: s47F @allenandclarke.com.au>
Cc: s47F @allenandclarke.com.au>; s47F @allenandclarke.co.nz>
Subject: Tender evaluation - review of the Marketing in Australia of Infant Formulas:

Manufacturers and Importers Agreement [SEC=OFFICIAL]

REF: Tender evaluation for the review of the Marketing in Australia of Infant Formulas: Manufactures and Importers Agreement (MAIF Agreement)

Dear s47F,

The evaluation panel for would like to seek further information and clarification from Allen + Clarke in regard to their role in supporting the work of the New Zealand Ministry of Health. The panel understands that Allen + Clarke administer an independent complaints process under the Code of Practice for Health Workers and the Infant Nutrition Council Code of Practice for the Marketing of Infant Formula. Could you please provide further detail of the role Allen + Clarke are employed to undertake as outlined in your quote submission, including details of the work, engagement with stakeholders in this role and timeframes for the work (including whether this work is ongoing).

The evaluation panel would appreciate any further detail you could provide regarding potential conflict of interest and risk assessment and mitigation strategies around this work if you think it is relevant. We would appreciate a response tomorrow if possible.

Kind regards,

MAIF Complaints Committee Secretariat team
Nutrition Policy Section

Population Health Division | Primary and Community Care Group
Preventive Health and Food Branch
Australian Government Department of Health and Aged Care
E: s47E(d) @health.gov.au
MDP 570, GPO Box 9848, Canberra ACT 2601, Australia

The Department of Health acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

From: s47E(d) @health.gov.au>
Sent: Monday, 14 November 2022 4:00 PM
To: s47F @allenandclarke.com.au>; s47E(d) @health.gov.au>; s22 @Health.gov.au>
Cc: s47F @allenandclarke.com.au>; s22 @Health.gov.au>; s47F @allenandclarke.co.nz>
Subject: Receipt of submission RE: Allen + Clarke response to Request for quote - review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement [SEC=OFFICIAL]

Dear s47F

The Department can confirm receipt of your submission in response to a request for quote for the *review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)*, prior to the closing time. The submission will now move to the evaluation phase of the procurement, and any questions in relation to this process should be sent in writing to s47E(d) @health.gov.au.

Regards

s22
MAIF Complaints Committee Secretariat – Nutrition Policy Section
Preventive Health and Food Branch

Population Health Division | Primary and Community Care Group
Australian Government, Department of Health and Aged Care
T: 02 6289 s22 | E: s47E(d) @health.gov.au
PO Box 9848, Canberra ACT 2601, Australia

The Department of Health and Aged Care acknowledges First Nations peoples as the Traditional Owners of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to all Elders both past and present

From: s47F @allenandclarke.com.au>
Sent: Monday, 14 November 2022 1:16 PM
To: s47E(d) @health.gov.au>; s22 @Health.gov.au>
Cc: s47F @allenandclarke.com.au>; s47F @allenandclarke.co.nz>
Subject: Allen + Clarke response to Request for quote - review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement [SEC=OFFICIAL]

REMINDER: Think before you click! This email originated from outside our organisation. Only click links or open attachments if you recognise the sender and know the content is safe.

Good afternoon s22

Thank you for the opportunity to submit a quotation to undertake a review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement.

I have attached two documents:

- Our quote
- Our detailed pricing information

I'd appreciate if you could confirm receipt of my email and attachments.

Kind regards

s47F

s47F
Director - Business Development + Systems
My usual work hours are Monday to Thursday
Ph. s47F
s47F @allenandclarke.com.au

Allen + Clarke acknowledges the Traditional Custodians of the land we work on and the communities that we work with. We acknowledge their history, culture and Elders past, present and emerging.

From: s22 @Health.gov.au>
Sent: Monday, October 31, 2022 4:14:15 PM
To: s47F @allenandclarke.com.au>
Cc: s47E(d) @health.gov.au>
Subject: Request for quote - review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement [SEC=OFFICIAL]

Dear s47F

Please find attached a request for quote for services of Allen and Clarke.

Please contact the secretariat if you have any questions.

Kind regards,

s22
MAIF Complaints Committee Secretariat – Nutrition Policy Section
Preventive Health and Food Branch
Population Health Division | Primary and Community Care Group
Australian Government, Department of Health and Aged Care
T: 02 6289 s22 | s47E(d) @health.gov.au
PO Box 9848, Canberra ACT 2601, Australia

The Department of Health and Aged Care acknowledges First Nations peoples as the Traditional Owners of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to all Elders both past and present

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transmission."
"Important: This transmission is intended only for the use of the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited. If you receive this transmission in error please notify the author immediately and delete all copies of this transmission."

Guidance / Instructions

This guidance page is designed to assist you to complete a risk assessment. The guidance has been divided into separate sections: *How do I? guidance, outline of each worksheet, and the instructions on how to do a risk assessment* .

If there is some additional information you need that is not featured in the information below, please contact the Risk Management Team either via email: s47E(d) @health.gov.au, phone: 02 628[redacted] , or visit the Risk Management intranet page.

How do I?

Start a new line in the same cell	Press 'Alt+Enter' together.
Printing the risk register	If there are rows or columns you don't want to print, then highlight and hide them. Select area you want to print (Page layout tab/Print Area/Set Print Area/ Set Print Area)
Can't put own text in cell	Some cells are locked down as they have formulas to assist in the assessment process.
Transferring information from one Excel Spreadsheet to another	Double click in the cell and highlight the text you want to copy/transfer, double click in the new cell you want to transfer to and paste. This will ensure the information is transferred, and not any formulas attached to the first worksheet.
Excel Training	Additional Excel training courses are offered through Success Factors.
Spell check my worksheet	Unfortunately, due to the lack of ability to install macros into the workbook, spell check has been disabled for this workbook.

Workbook tabs (worksheets)

Guidance	Outlines how to use the template, not how to do a risk assessment. For information on how to do a risk assessment see the Risk Management Intranet page.
Approval Form	This worksheet captures the approval process for the risk assessment.
Risk Assessment	The governance, analysis and evaluation component of the risk assessment.
Treatment Plan	Captures information on the development and implementation of new mitigation strategies.
Control Effectiveness	To record all information in relation to the testing of the risks.
Issues Register	To record all unplanned situations that are happening **NOW** that require management attention.
Risk Matrix	Presents the Consequence and Likelihood matrix, the Consequence Descriptors, and the Tolerance Table (outlines what actions are required based on the outcome of the assessment).
Risk Theme List	Provides high level examples of what types of risks fall within the Themes. This list IS NOT exhaustive of all risk types.
Definitions	Describes the risk management terms and definitions related to this template.

Guidance / Instructions

Risk Assessment

Title	Template instructions and how to do a risk assessment
Risk ID No.	*Locked cell.* This will pre-populate when text is inserted into the Risk Identification cell.
Risk Identification	*Free text.* This is where you describe your risk. A risk is an EVENT. It is an event that can stop, disrupt the course of reaching the objective.
Cause/s	*Free text.* A Cause is what would have to happen for the risk to occur. One Risk will have multiple Controls. For a Risk to occur, a Control would have to fail.
Consequence (Impact)	*Free text.* Capture the impact if the risk occurred. The impact could affect the program/project/activity, budget, reputation on the Minister/department/program etc, constituents, stakeholders, etc. Consider both negative and positive impacts.
Risk Owner	*Free text.* Enter the Position Title for the Risk Owner. There is only ONE Risk Owner per risk. The Risk Owner has overall responsible for the risk and the authority to make decisions. Full explanation is in the Definitions worksheet.
Shared Risk	*Free text.* List all stakeholders that share the risk. Name the agency and the area you are working with Eg: DSS, Finance Team. A Shared Risk is one that has no one single owner. A Shared Risk is a risk managed with another agency (external to the Department of Health).
Current Mitigation Strategies - Controls	*Free text.* A Control is what you are DOING NOW to manage a Cause. It is common for one risk to have multiple Controls. A Control is an activity that can be demonstrated to reduce either the likelihood of the risk occurring and/or consequence if the risk occurred. List the Controls (active management practices).
Control Owner	Free text. Identify the Owner of each Control. Not all Controls have the same owner. It is common to have multiple Control Owners to managing the risk. Risk Owners CANNOT be a Control Owner. Full explanation is in the Definitions worksheet.
Risk Theme	*Drop down list.* Select the best Risk Theme relating to your risk.
Current Risk Rating - Overall assessment based on the effectiveness of Controls and the Consequences if the risk occurred. The full risk matrix can be found on the Risk Matrix worksheet.	
Current Consequence	*Drop down list.* Select the Consequence rating based on the assessed impact the Consequence cell. Full Consequence Table can be found on the Risk Matrix worksheet.
Current Likelihood	*Drop down list.* Select the Likelihood rating based on the effectiveness of the Controls and the probability of it occurring (frequency of occurrence). Please note: the likelihood of a risk may change during the life of the program/project/activity - it is best practice to regularly review and update as required.

	Current Risk Rating	*Locked cell.* This will pre-populate based on your Consequence and Likelihood ratings you have selected.
	Risk tolerance	*Locked cell.* This will pre-populate based on your Current Risk Rating and the Risk Theme selected. The Enterprise Risk Tolerance levels have been embedded into this template to remove any guess work.
	Risk Owner accepts the risk	*Drop down list.* Select Yes or No from the drop down list. It is the responsibility of the Risk Owner to accept or not the risk a the current risk rating.
	Further actions required?	Locked cell. This will pre-populate based on if the Current Risk Rating falls in/out of the Risk Tolerance Levels AND the acceptance or not of the risk by the Risk Owner. The response will direct you to the next required action.
	Supporting comments and information	*Free text.* This cell is a valuable tool for you to capture any TRIM file numbers, additional comments that supports the management of the risk.
Treatment Plan	Risk Treatments are by exception only. They cost time, money and resources. If you have been directed to implement a Treatment to manage the risk, ensure you have tested the Controls FIRST before commencing. Risk Owners are the only people that can approve a Treatment.	
	Risk ID No.	*Locked cell.* This will pre-populate when text is inserted into the Risk Identification cell in the Risk Assessment worksheet.
	Risk Identification	*Locked cell.* This will pre-populate with the risks identified in the Risk Assessment worksheet under Risk Identification. To update the risk, you will need to updated it in the Risk Assessment worksheet.
	Current Risk Rating	*Locked cell.* This will pre-populate with the Current Risk Rating as per the Risk Assessment worksheet. To update this rating, you will need to update the risk assessment in the Risk Assessment worksheet.
	Treatments	*Free text.* A Treatment is an activity that is BEING DEVELOPED to manage the Cause/s. A Treatment has an implementation date - once it is implemented (being used) it is reclassified to a Control. List the Treatments currently under development for the risk.
	Treatment Owner	*Free text.* Identify the Owner for each Treatment. They are responsible for the management and implementation of the Treatment. Risk Owners CANNOT be a Treatment Owner. Full explanation is in the Definitions worksheet.
	Date Treatment to be implemented	*Free text.* Enter the date (dd/mm/yy) that the Treatment is expected to be implemented. This assists the Treatment Owner in the management of the Treatment, it also allows the Risk Owner to monitor the progress.
	Target Risk Rating - Expected Risk Rating to be achieved once Treatments have been implemented. Full risk matrix can be found on the Risk Matrix worksheet.	
	Target	*Drop down list.* Select the Consequence rating based on the assumed impact.
	Target Likelihood	Drop down list. Select the Likelihood rating based on the assumed effectiveness of the Treatment.
	Target Risk Rating	*Locked cell.* This cell will pre-populate based on the Consequence and Likelihood rating you selected.
	Risk Tolerance	Locked cell. This will pre-populate based on your Target Risk Rating and the Risk Theme selected. The Enterprise Risk Tolerance levels have been embedded into this template to remove any guess work.
Control Effectiveness	It is best practice to test the effectiveness, currency of Controls on a regular basis. It is recommended that set dates are identified when undertaking the risk assessment for review/testing.	
	Risk ID	*Locked cell.* This will pre-populate when text is inserted into the Risk Identification cell in the Risk Assessment worksheet.
	Risk Identification	*Locked cell.* This will pre-populate with the risks identified in the Risk Assessment worksheet under Risk Identification.
	Controls	*Locked cell.* This will pre-populate with the Controls identified in the Risk Assessment worksheet under Risk Identification. To update the Controls, you will need to updated it in the Risk Assessment worksheet.
	Control Owner	*Locked cell.* This will pre-populate with the Control Owners as identified in the Risk Assessment worksheet.
	Date of testing	*Free text.* Enter the date (dd/mm/yy) of testing. This allows for monitoring of Controls.
	Results of testing	*Free text.* Capture the results of the testing/review and what actions are required. This is to be reported to the Risk Owner for the monitoring of the risk. If there are actions to be undertaken, ensure the person responsible is recorded.
	Risk Owner	*Locked cell.* This will pre-populate with the Risk Owner as identified in the Risk Assessment worksheet.
	Date approved	*Free text.* Enter date (dd/mm/yy) review is approved.
Issues Register	**Issues are not risks.** They are events that have *eventuated and are currently being managed* to protect/reduce the impact on the objectives. New risks may arise from the presence of an issue.	
	ID #	*Locked cell.* This will pre-populate with a number when text is inserted into the Issue Description cell.
	Issue Description	*Free Text.* A brief description of the issue, the cause and consequence.
	Date Raised	*Free Text.* Enter in date originally identified.
	Raised by	*Free Text.* The name of the person or team that identified/raised the issue.
	Actions Required	*Free Text.* Outline the actions that **must** be implemented to mange the issue.
	Date Action to be Implemented	*Free Text.* The last date when the actions **must** be implemented. This allows effective monitoring of progress on activities.
	Issue Status	*Drop down list.* Select from Active or Closed. **Active:** the issue is still alive and are currently being managed. **Closed:** the issue has been managed.

Risk Register Approval	
Division / Branch / Section / Project Name	{Go to Approval Form to insert title}
Risk Register Owner	
Date Risk Register approved	
Date Risk Assessment originally undertaken	
Dates of reviews/updates	

Risk Register

{Go to Approval Form to insert title}

Risk ID No.	Risk Identification A risk is an **event** that can either disrupt, interrupt or stop the success of reaching your objective.	Cause/s What would cause it to go wrong?	Consequence (impact) What would happen if the risk occurred?	Risk Owner Position title and business area. For example: AS, Corporate Assurance Branch	Shared Risk Position title and **agency** you are working with. For Example: Chief Financial Officer, Department of Human Services	Current Mitigation Strategies (Controls) Controls already in place and in use. If creating a new mitigation strategy STOP and go to *Treatment Plan*	Control Owner Position Title and business area	Risk Theme refer to Risk Matrix tab	Current Risk Rating (see Risk Matrix tab)			Risk Tolerance Risk rating falls **inside** or **outside** the risk tolerance level	Risk Owner accepts the risk Yes or No	Further actions required?	Supporting comments and information For example, TRIM numbers for supporting documents such as meeting and file notes, contracts, MOUs, and decisions points.
									Current Consequence	Current Likelihood	Current Risk Rating				
s47E(d)															

Risk Treatment/s

{Go to Approval Form to insert title}

Treatments are by exception only. If the Controls are not effective, efficient or complete, then Treatments are required.

Risk ID #	Risk Identification Pre-populated as per Risk Assessment	Current Risk Rating Pre-populated as per Risk Assessment	Treatments New activities being developed to manage the risk	Treatment Owner Position title and business area	Date Treatment to be implemented dd/mm/yy	Target Risk Rating Assess as though Treatments have been implemented			Risk Tolerance Target risk rating falls **inside** or **outside** risk tolerance level	Supporting comments and information For example, TRIM numbers for supporting documents such as meeting and file notes, contracts, MOUs, and decisions points.
						Target Consequence	arget Likelihood	Target Risk Rating		
s47E(d)										

Control Effectiveness

Review and test Controls regularly to ensure they are current, active and effective.

{Go to Approval Form to insert title}

Risk ID #	Risk Identification Pre-populated as per Risk Assessment	Controls Pre-populated as per Risk Assessment	Control Owner Pre-populated as per Risk Assessment	Date of testing dd/mm/yy	Results of testing i.e. what actions arose from the testing of controls? Evidence the control is effective ie if the Control was removed, would it impact on the likelihood of the risk occurring?	Risk Owner Pre-populated as per Risk Assessment	Date approved dd/mm/yy
s47E(d)							

Issues Register

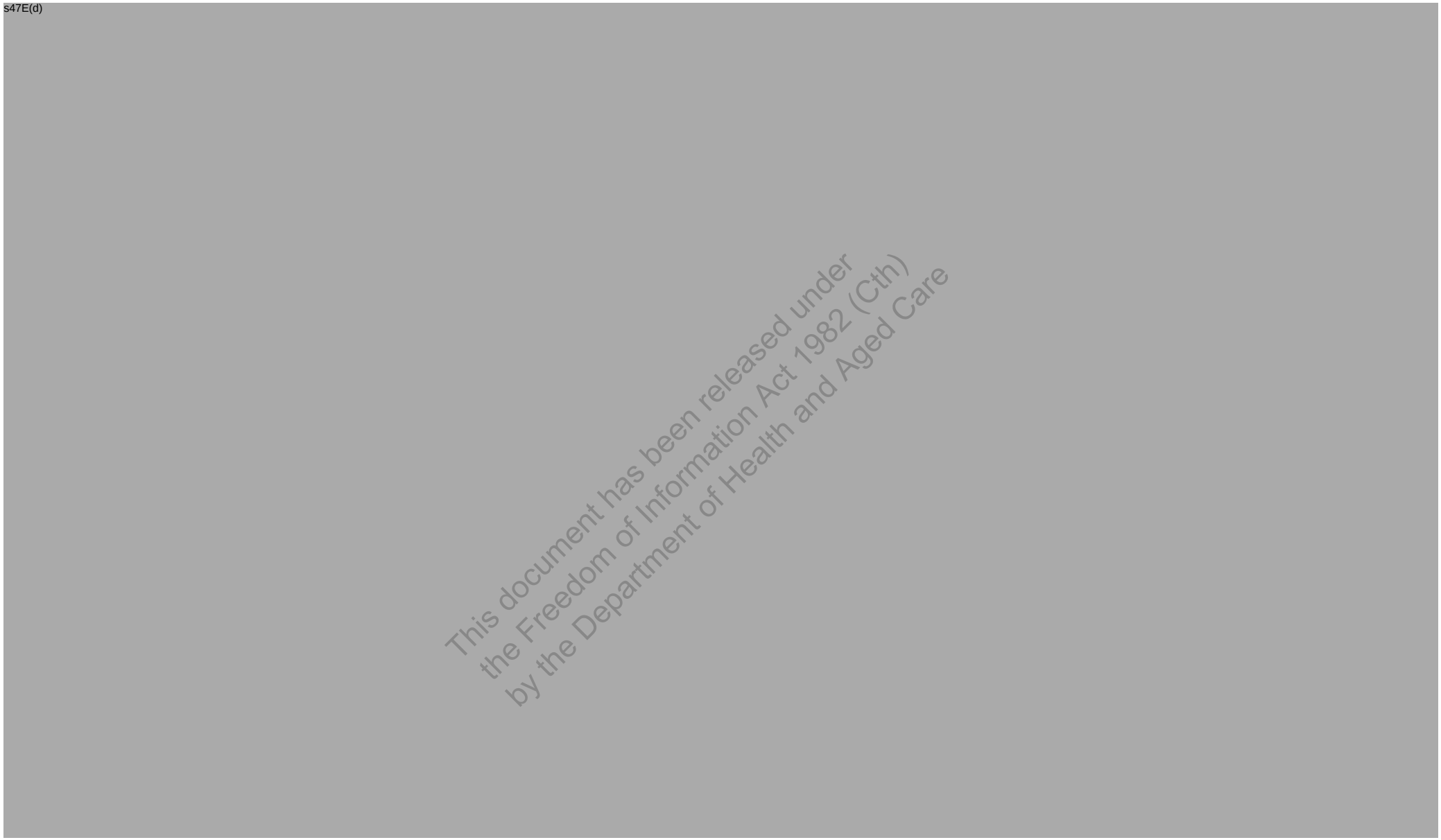
{Go to Approval Form to insert title}

This Issues Register is to document all of issues (relating to this risk register) that are happening **NOW** and that require management attention.
Recording issues can assist with any required reporting and identify lessons learnt.

ID #	Issue Description A brief statement describing the issue, its cause and consequence	Date Raised dd/mm/yy	Raised By Name of person or team that raised the issue	Action Required What actions **must** be implemented to manage the issue	Date Action to be Implemented Final date actions must be implemented (dd/mm/yy)	Issue Status Active OR Closed	Supporting comments and information For example, TRIM numbers for supporting documents such as meeting and file notes, contracts, MOUs, and decisions points.

s47E(d)

s47E(d)



Risk Management Terms and Definitions

Term	Definition
Activities	The actions, processes or function undertaken to deliver objectives and achieve desired results.
Adequate control	Reasonable assurance has been provided that the Department's risks have been managed effectively and that the Department's goals and objectives will be achieved efficiently and economically.
Consequence / Impact	The impact if the risk occurred. This could have either a positive or negative impact.
Control	The activity that is *currently in place* to manage a risk. i.e. what you are doing now to ensure the risk either doesn't eventuate or to minimise the likelihood/consequence if it did.
Control Effectiveness	A test to determine their suitability, adequacy and effectiveness in preventing or reducing the likelihood of the risk from occurring.
Control Owner	A Control Owner is **accountable** for the effective oversight and management of the control they have been tasked to manage. They are **responsible** for ensuring the control remains effective and relevant to the risk. They are also required to report the status of the risk and any updates to the Risk Owner. A risk can have multiple Controls. Each Control requires a Control Owner. If there are no Control Owners for the Control, the risk is not being managed.
Current Risk Rating	Combination of both current risk consequence and current risk likelihood. Based on identified risk matrix.
Enterprise Risk	An *internal* risk impacting on the department. These risks are topical to the department and are managed as one risk ie one risk identified, controlled, monitored and reported on by the Risk Owner or Risk Management Team.
Event	Something that happens (an occurrence) that will have either a positive or negative impact on delivering your goals / outcomes / objectives. An Event is a calendar entry. Eg: Bill not passed by the Senate (event) in the Autumn sitting (date/timeframe).
Impact	Influence or effect (positively or negatively) on objectives/goals.
Issue (Register)	An issue is an event that is happening **NOW,** it is here and it is *currently* being managed - it is no longer a risk. There is no longer a 'likelihood' of the risk occurring and the consequences are being observed *now*. An Issues Register is to capture and maintain information relating to that issue.
Likelihood	Chance of something happening. This is based on the effectiveness of the Controls *plus* frequency (time period) in which the risk could occur. Please note: the likelihood of a risk may change during the life of the program/project/activity - it is best practice to regularly review and update as required.
Mitigation Strategy	The 'umbrella' statement of everything that is being done to manage the risk - refers to **both** Controls and Treatments.

Australian Government
Department of Health and Aged Care

Procurement Plan Agreement and Approval to Approach the Market

To: Tracey Andrews, Acting Assistant Secretary, Preventative Health and Food Branch

Subject: **Procurement for review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)**

RECOMMENDATIONS:

NOTE the Finance Business Partner has confirmed that uncommitted funding is available to an estimated total value of s47D (GST inclusive) for the requirement detailed in the attached Procurement Plan (**Attachment A**).	~~Noted~~ / Please Discuss
NOTE the Indigenous Procurement Policy mandatory set-aside does not apply to this procurement (**Attachment B**).	~~Noted~~ / Please Discuss
NOTE the overall Risk Profile of this procurement is Low (**Attachment C**).	~~Noted~~ / Please Discuss
NOTE a Probity Plan has been completed for this procurement (**Attachment D**) *Refer to Probity Principles Guidance - Delete if not applicable*	~~Noted~~ / Please Discuss
APPROVE the request document in accordance with the Procurement Plan RFQ (**Attachment E)**.	~~Approved~~ / Please Discuss
NOTE the services requested are considered Consultancy services and will be reported accordingly.	~~Noted~~ / Please Discuss
APPROVE the Evaluation Plan for this competitive procurement (**Attachment F**).	~~Approved~~ / Please Discuss

s47F

Tracey Andrews

A/g Assistant Secretary, Preventative Health and Food Branch

28th October 2022

Key Points:

i. This Procurement Plan demonstrates the proposed procurement's alignment with the *Commonwealth Procurement Rules*.
ii. This procurement will be conducted in accordance with the Department's Procurement Process.

Contact Officer:

s22	**A/g Director**	**Preventative Health and Food Branch, Population Health Division**	**Phone: 02 6289** s22

PROCUREMENT PLAN

Procurement of Consultancy Services for review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement – Health/ E21-146339

1. PROCUREMENT AIM AND JUSTIFICATION

The Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) has operated since 1992, as a voluntary, self-regulatory, code of conduct between the manufacturers and importers of infant formula in Australia. It is Australia's response to the World Health Organisation *International Code of Marketing of breast-milk substitutes* (WHO Code). The MAIF Agreement applies to those Australian manufacturers and importers of infant formula who are signatories to the agreement.

A review of the MAIF Agreement was a recommendation of the *Australian National Breastfeeding Strategy 2019 and beyond*, with policy authority and funds committed in 2019. The Australian Competition and Consumer Commission (ACCC) recommended a review of the agreement as part of the agreement re-authorisation process in 2021. The review will include options and recommendations for reform.

The review will include a comprehensive examination of the effectiveness of the MAIF Agreement in:

- Protecting and promoting breastfeeding as well as the effectiveness in ensuring the provision of adequate information about infant formula, for carers and formula feed infants.
- Its purpose as a voluntary, self-regulatory code of conduct between the manufacturers and importers of infant formula in Australia, as well as areas not currently covered by this agreement including toddler milk marketing.

The review proposal has been assessed in relation to the risk of the program; meeting the objectives of the program; and government policy, innovation, and potential performance.

Potential suppliers from the Whole of Australian Government Panel SON3751667 (Management Advisory Services Panel) will be approached using a Request for Quote based on their prior experience in government and health policy and regulatory reviews. To ensure value for money and competitive procurement evaluation, a minimum of 7 potential suppliers will be approached.

By following the Department of Health and Aged Care Procurement Method Decision Tree, the procurement will be compliant with the requirements of the *Commonwealth Procurement Rules* (CPRs).

2. ESTIMATED PROCUREMENT TIMETABLE

Distribution of RFQ to potential supplier/s:	Monday 24 October 2022
Closing Date for Responses:	Monday 7 November 2022
Response Evaluation:	Tuesday 8 November
Contract Start Date:	15 December 2022
Contract End Date:	30 June 2023
Extension Option:	An extension will be included in the contract of 2x 6 months (if required)

3. DETAILED ESTIMATE OF COSTS

The estimated expenditure for the initial contract term is s47D GST inclusive.

The total estimated expected maximum value of the proposed procurement (including GST (if applicable), options, extensions, renewals, or other mechanisms that may be executed over the life of the contract) is s47D

Approval to exercise any extension, option or renewal will be sought prior to extending the arrangement.

The expenditure is proposed as follows:

Financial Year	Amount
22-23 (initial contract term)	s47D
23-24 (extension option)	As negotiated
Total Estimated Expected Maximum Value	

Any expenditure will be funded from:

Cost Centre Name: s47E(d)

Cost Centre Code:

4. INDIGENOUS PROCUREMENT POLICY

The Indigenous Procurement Policy checklist was completed and determined the mandatory set-aside does not apply to this procurement (**Attachment B**).

5. PROCUREMENT METHOD

The estimated expected maximum value of the proposed procurement is above the relevant procurement threshold (CPRs 9.7).

The Services will be procured through an existing panel arrangement (CPRs 9.12-9.13) – Panel Name/SON ID: SON3751667 – Management advisory services panel.

The following supplier(s) will be approached:

Supplier Name	Reason
s47G	*Demonstrated skills and experience in policy and strategy in past performance. Background knowledge and experience that will likely be useful/transferable to the MAIF review.*
	Specialist in public sector professional service, experience in navigating complex politically driven environments as well as projects with multiple conflicting stakeholders.
	Expertise in advising on departmental governance models. Capability and functional reviews, identifying efficiencies and improvements and reviewing and implementing new delegation arrangements.
	Experience in developing quality policy and program frameworks, specifically in economics, bio physical science and social science to develop well informed policy.
Allen and Clarke Consulting Pty Ltd	*Demonstrated engagement with the public service and ministers, led strategic and planning processes and previous engagement in capability reviews.*
s47G	*Specialise in forensic, governance, risk and compliance, and strategy and business improvement.*

Supplier Name	Reason
s47G	*Primary expertise in health and social services sectors, regulation, reviewing and evaluation of policies and programs and facilitation of stakeholder engagement.*

If no suitable responses are received, this Procurement Plan will be re-assessed and an alternative process may be considered.

6. STAKEHOLDER CONSULTATION

The division's Finance Business Partners have been consulted to ensure adequate funds available for this procurement **(Attachment A).**

Procurement Advisory Services were consulted during the preparation of the Indigenous Procurement Policy (IPP) checklist **(Attachment B).**

7. RISK ENGAGEMENT

A Risk Profile has been completed (**Attachment C**) and the overall risk rating is Low. Risks will continue to be monitored throughout the process and reported to the Delegate as appropriate.

8. DOCUMENT DISTRIBUTION AND RECEIPT

Documentation will be handled in line with the requirements of the panel arrangement via AusTender DS4P.

9. EVALUATION

The Evaluation Team will review responses to determine the best value for money outcome for the Commonwealth in accordance with the approved Quote Evaluation Plan (**Attachment F**).

The Evaluation Team possess the necessary mix of technical/subject matter skills to effectively assess the submission/s. An evaluation report will be provided to the Delegate.

The proposed Evaluation Team is as follows:

Name	Position Title	Branch/Division	Role
s22	Departmental Officer	Preventive Health and Food Branch Population Health Division	Team Member
s22	Assistant Director	Preventive Health and Food Branch Population Health Division	Subject Matter Expert
s22	Director	Preventive Health and Food Branch Population Health Division	Chairperson

10. CONTACT OFFICER

Date Completed	Contact Name	Position Title	Division/Branch	Contact Phone
21/10/2021	s22	Assistant Director	Population Health Division/ Preventive	**02 6289** s22

			Health and Food Branch	

Attachments:

A. Final MAIF Expenditure Information (FBP Approval)
B. IPP Checklist
C. Risk Profile
D. Probity Plan
E. Procurement Plan RFQ
F. Evaluation Plan

Australian Government
Department of Health and Aged Care

Expenditure Information Template

- This document is to be sent to your Finance Business Partner (FBP) for Expenditure related information to assist with completing an Approval in Principle, Commitment Approval, and Contract Registration in SAP.
- **NOTE: this is NOT an Application for Beyond Forward Estimates Approval.**
- For Beyond Forward Estimates Approval information, please click here.

Finance Business Partner:	s22
Procurement Officer:	s22
Description of procurement *Procurement Officer to complete*	*Review of the Marking in Australia of Infant Formulas: Manufactures and Importers Agreement (MAIF Agreement)*
Estimated value of the procurement (including GST) *Procurement Officer to complete*	*22/23 -* s47D
Source of Funds *Procurement Officer to complete (FBP to confirm)*	*Administered funds*
Managing Division *Procurement Officer to complete (FBP to confirm)*	*PHD*
Are Funds available? *Procurement Officer to complete (FBP to confirm)*	*Y*
Does GST Apply? *Procurement Officer to complete (if unsure please discuss with your FBP)*	*Y*
Cost Centre Code *Procurement Officer to complete (FBP to confirm)* *Useful Numbers and Cost Centres*	s47E(d)
Internal Order (if applicable) *Procurement Officer to complete (FBP to confirm)*	
Material Code *Procurement Officer to complete (FBP to confirm)*	OT-250-GST
General Ledger (GL) Account Code *Procurement Officer to complete (FBP to confirm)* *Commonly used General Ledger Codes*	s47E(d)
Estimated start date or purchase date *Procurement Officer to complete*	*1 November 2022*
Estimated end date: *Procurement Officer to complete*	*30 June 2023*
Financial Year/s *Procurement Officer to complete*	*22/23*
Is Beyond Forward Estimates Approval required?	N
Is an Invoice Plan applicable? *Applies to regular monthly payments over the contract period. Please discuss with your FBP.*	*N*

Once completed and returned by your FBP, attach this form to the Procurement Plan / Approval in Principle record in SAP as evidence of FBP consultation and funds availability.

Procurement Risk Profile

This template must be used to determine the risk profile of your procurement in the **planning, and sourcing stage**.

Why assess procurement risk?

Procurement effort should be proportionate to the risk profile of the procurement. As the risk increases, the procurement process and documentation demands greater rigor and level of detail.

More information including examples of procurement risk can be accessed via Risk in Procurement.

Risk Factor Ratings

The overall risk profile is the rating with the highest number. In case of a tie, select the highest rating.

This risk profile is completed by: s22, Assistant Director, Nutrition Policy Section, Preventive Health and Food Branch

➢ PLANNING

Step 1: Identify risks in the planning stage (preparing to approach the market for a quotation)

Source of Risk	Risk Rating s47E(d)	Is the risk acceptable? *(for medium and high risk only)*
Requirements • Potential for the goods/services requirements not being identified accurately or sufficiently • Potential for inadequate information provided to potential suppliers • Potentially difficult to find replacement goods/services		Yes
Policy and Probity • Potential for change in Government policies • Potential for probity issues • Failure to meet Procurement Connected Policies (including Child Safety, Modern Slavery, Workplace Gender Equality, Indigenous Procurement Policy etc.)		Yes
Market research • Failure to identify appropriate potential suppliers		N/A
Timeframes • Potential for impractical timeframes		Yes
Cost • Potential for increase in procurement costs		N/A
OVERALL RISK RATING:	**LOW**	

➢ SOURCING

Step 1: Identify risks in the sourcing stage (release of RFQ, evaluation/negotiation, contract and commitment approval)

Source of Risk	Risk Rating s47E(d)	Is the risk acceptable? *(for medium and high risk only)*
Evaluation		

• Potential for insufficient number of quotations/proposals • Failure to follow effective evaluation processes • Failure to identify risks in the quotation / proposal • Potential for selecting inappropriate supplier	s47E(d)	ument 4.2 Yes
Delivery • Potential for delivery of goods/services that do not meet the requirements in the contract • Potential for poor supplier performance • Unauthorised increase in scope of work		Yes
Contract and Commitment • Potential for insufficient funding available • Failure to secure mandatory conditions of contract / supplier not willing to accept the contract terms • Inadvertently creating a contract without the Delegate's prior approval • Failure to have sufficiently skilled and experienced resources to effectively manage the contract. • Contract does not contain the required reference to Procurement Connected Policies (including Child Safety, Modern Slavery, Workplace Gender Equality, Indigenous Procurement Policy etc.)		Yes
OVERALL RISK RATING:	**LOW**	

Step 2: This step must be completed for individual medium or high risks assessed as unacceptable in Step 1 for the Planning and Sourcing stages.

The Risk *(What can happen?) A risk description may be written as either: Failure to…… OR……. An ineffective (XXX) leads to (XXX) resulting in (XXX).*	**Consequence (Impact)** *(What would be the consequence/impact on the department, division or project if it does happen?)*	**Risk Treatment** *(What remedies currently exist? What is being developed to reduce the chance of the risk happening or the impact if it does?)*
Planning		
xxx		
xxx		
xxx		
Sourcing		
xxx		
xxx		
xxx		

If the **overall risk profile at Planning or Sourcing stage** is **Medium or High,** the Delegate must be informed and a Risk Register – Assessment and Treatment **must** be completed.

NOTE: The completed Risk Profile must be attached with the Procurement Plan / Approval in Principle in SAP.

Australian Government
Department of Health

PROBITY PLAN
for
Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers (MAIF) Agreement

Background

The Department of Health and Aged Care is seeking to undertake a comprehensive review of the MAIF Agreement. The MAIF Agreement has operated since 1992, as a voluntary, self-regulatory, code of conduct between the manufacturers and importers of infant formula in Australia. It is Australia's response to the World Health Organisation *International Code of Marketing of breast-milk substitutes* (WHO Code). The MAIF Agreement applies to those Australian manufacturers and importers of infant formula who are signatories to the agreement.

A review of the MAIF Agreement was a recommendation of the Australian National Breastfeeding Strategy 2019 and Beyond, with policy authority and funds committed in 2019. In 2021, the Australian Competition and Consumer Commission (ACCC) recommended a review of the Agreement as part of the agreement re-authorisation process. The review will include options and recommendations for reform.

The review will include a comprehensive examination of the effectiveness of the MAIF Agreement in:

- Protecting and promoting breastfeeding as well as the effectiveness in ensuring the provision of adequate information about infant formula, for carers and formula feed infants.
- Its purpose as a voluntary, self-regulatory code of conduct between the manufacturers and importers of infant formula in Australia, the scope of signatories and areas not currently covered by this Agreement such as toddler milk.

Purpose of paper

The purpose of the paper is to outline probity processes and standards for the evaluation and to present these to senior management for consideration and endorsement. The process is being run in accordance with the department's procurement framework as outlined within the Procurement intranet site.

Probity is defined as evidence of ethical behavior in a particular process. It contributes to sound decision-making management processes that accord equal opportunities for all participants. A good outcome is achieved when probity is applied with common sense.

Ethics are the moral principles or values that guide a person in all aspects of their work. Ethical behaviour encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency. Ethical behavior includes avoiding conflicts of interest, and not making improper use of an individual's position.

The Need for a Probity Plan

This document provides guidance to those involved in managing the procurement process to ensure that processes, procedures and documentation are robust, defensible, transparent and capable of external audit. The Delegate must be advised of any issues of non-compliance with this Plan. This document sets out the minimum, mandatory probity requirements. It does not discuss requirements for post-execution processes apart from the probity principles, or attempt to provide a step-by-step guide for the decision-making process, as these issues are covered in the Commonwealth Procurement Rules and the Procurement intranet site.

The Probity Plan aims to:

- produce better outcomes against stated objectives;
- minimise conflicts/problems and the potential for litigation;
- avoid the potential for corrupt practices to occur; and
- maintain public sector integrity.

Decisions should not be driven by probity, as only focusing on this aspect could limit the achievement of value for money. Instead, it should be applied to each aspect of the decision-making process with common sense and flexibility.

This document is drawn from a range of guidance material including the Department of Finance Guidance on Ethics and Probity in Government Procurement and the Australian National Audit Office's Better Practice Developing and Managing Contracts.

Objectives of Probity in the Procurement Process

Probity in the procurement process is the responsibility of everyone involved. The broad objectives are to:

- ensure conformity to the process;
- provide accountability;
- ensure that the interests of applicants are protected by an equitable process;
- ensure that all proposals will be assessed against the same criteria;
- preserve the confidence of the public and applicants in the Australian Government processes; and
- improve defensibility of decisions to potential legal challenge.

Probity Principles

There are a number of principles to promote proper and ethical practices. These principles must guide all stages of the process and are:

- fairness and impartiality;
- consistency and transparency of the process;
- use of an appropriately competitive process;
- appropriate security and confidentiality arrangements;
- identification and management of actual and potential conflicts of interest; and
- compliance with legislative obligations and Government policies.

Ethical Decision-Making

Decisions need to be made in a visible manner and appropriately documented to allow them to be understood or justified upon review. Transparency is also a primary consideration throughout the decision-making process from the initial identification of need through to the end of the contract.

Responsibility for important decisions must be clearly defined and appropriately authorised by the delegate and if appropriate, cleared through Procurement Advice Services (PAS) and Legal Services Branch (LSB). In particular, probity principles must be observed in relation to:

- preparing tender documents and related documents;
- analysing proposals, preparing recommendations and making decisions on short listing and successful applicant selection;
- handling applicant information;
- managing liaison with applicants, including the provision of information and negotiation; and
- appropriate consultation with the Minister, other areas of the Department and other parties which are not directly involved in the management of the process but have an interest in its conduct and outcome.

Conflicts of Interest

Conflicts of interest can endanger both the actual and perceived objectivity and ethical standing of the decision-making process. A conflict of interest may arise where either a person involved in managing the process or an applicant, has an affiliation or interest which might be seen to prejudice his or her impartiality.

Conflicts of interest are commonplace and, provided they are identified early and dealt with effectively, they need not be indicative of any wrongdoing. It is important for conflicts of interest to be addressed as early as possible in the process. Personnel must strive to avoid actual or perceived conflicts of interest.

Applicants and non-APS staff involved in the assessment process are required to submit Conflict of Interest Declarations including any actual or perceived conflicts of interest. For non-APS staff, this should include other employment, prior employment or financial interests in organisations that may be potential applicants and relationships with people who have interests in these organisations. Conflicts of interest declarations and further information can be found here.

Responses to a potential or actual conflict of interest may vary. At one extreme, a conflict may result in an individual being excluded from the process. At the other end of the scale, simply documenting and advising, if appropriate, the Expenditure delegate and PAS of the conflict may resolve it. All disclosures of conflict must be fully documented and PAS advised.

Tender Documentation

The Request for Tender is a key probity-related document in the process and should be agreed by all interested parties, including PAS, before being finalised and sent to potential tenderers. The Request for Tender should clearly document the requirements of the decision-making process including:

- restrictions on the eligibility of parties to submit proposals;
- the scope, content and format required (minimum content) of conforming submissions;
- the mandatory requirements of submissions (Conditions of Participation), including any skills or experience which the tenderer must possess in order to participate in the process;
- a statement of the objectives for the project;
- the assessment criteria against which tenders are to be assessed and guidance on the relative importance or 'scoring' of criteria;

- When conducting multi-stage procurements, the initial approach to market for a multi-stage procurement ***must*** include, for every stage, the criteria that will be used to select potential suppliers, and if applicable, any limitation on the number of potential suppliers that will be invited to make submissions.
- notice that the Department reserves the right to have regard to such other matters as, in its absolute discretion, it regards as relevant;
- the deadline for the receipt of tender applications and the location for lodgement;
- procedures for handling day-to-day contact with potential applicants; and
- other procedures governing the provision of information to potential applicants.

Where the Request for Tender contains a clear rule (such as a deadline), the Tender Evaluation Team should ensure it is strictly applied. If the teams wish to tolerate minor errors or variances from its requirements, they should ensure these are consistent with the explicit provisions in the Request for Tender and the reason for any variation must be fully documented. All deadlines and extensions should be managed consistently for all submissions. Consultation with PAS is mandatory before implementing any variance to the provisions of the Request for Tender documentation.

Conditions for eligibility and assessment criteria must be clearly documented. Decisions on the selection of submissions must be made purely against these criteria. Well defined conditions for eligibility provide potential suppliers with a clear indication of requirements that they must meet, and reduce the resources wasted as a result of lodgement of unsuitable or misdirected proposals. Tender documentation must clearly identify and separate conditions for eligibility from those assessment criteria that are 'desirable' or 'optional'. Proposals must meet the conditions for eligibility. 'Desirable' or 'optional' criteria enable ranking of the proposals and if necessary, can be weighted, but the weighting must be published in the tender documentation.
Note: The evaluation criteria in the approved Tender Evaluation Plan should match the published Request for Tender/Quotation criteria.

Provision of Information to Tenderers

As a matter of principle, information needs to be available to all interested parties within the same timeframe and each tenderer needs to have access to the same material for the process to remain fair. For fair and equitable access to information for all tenderers it must be ensured that:

- contact between the Department and tenderers is channelled through a nominated Contact Officer only;
- requests for information are provided to the Departmental Contact Officer in writing via email only;
- communication is limited to factual answers and personal opinions are not provided;
- all communication is documented and recorded in a manner that can be readily audited (if required);
- questions and related answers are disclosed to all prospective tenderers via the AusTender website (without disclosing the source of the questions);
- any tenderer confidential information contained in a question (that is nominated as such by the relevant tenderer) will be removed prior to disclosure on AusTender; and
- **a tenderer who communicates other than to the Contact Officer may be disqualified from participating further in the tender.**

These processes will minimise the risks of discriminatory conduct and of disputes with tenderers. It will allow the Department to demonstrate that it has taken all reasonable steps to ensure that all tenderers are provided with the same opportunities to gain information.

Receipt of Tenders

Effort must be made by all staff handling tender submission, evaluation and selection documents, to ensure confidentiality is not compromised and that these documents are stored and accessed in compliance with Department's Record Keeping Policy. Proposals must be registered upon receipt, and entered into an appropriately secure TRIM file, for example, the file should be restricted to the evaluation team and PAS. Physical copies must be labelled 'Commercial-in-Confidence' and stored in a locked facility, for example, a cabinet or compactus when not in use. Information provided by unsuccessful applicants must also be treated as confidential after contracts have been awarded.

Personnel who receive commercially sensitive material from applicants and contractors are subject to confidentiality obligations. Confidentiality of proposal information is particularly important, and information should only be shared on a 'need to know' basis. All public servants are under a general obligation of confidentiality. Those involved in the process who are not public servants (eg, non-APS staff involved in the shortlisting process) must sign a Deed of Non-Disclosure and Confidentiality.

Security measures should also include limiting the number of, and numbering copies made of the documents; limiting access to the proposals, such as only allowing access by authorised staff; and ensuring that documentation is secure at all times.

Electronic security issues should also be considered, including controls over electronic delivery of proposals. Security measures may include transmitting documents as Portable Document Format (PDF) files to prevent alterations and double-checking emails and attachments before sending to potential applicants. Any e-mail messages of significance, particularly messages regarding the distribution of applicant information should filed accordingly in TRIM.

Acceptance of Late Applications

Adherence to deadlines is important in maintaining integrity. Applications received after the closing time and date will not be accepted unless the lateness is due to a Departmental error. Approach-to-market documents will state that late proposals will not be accepted. This will ensure that all potential applicants are aware that this is the case.

Requests for Extensions

Any action regarding requests for extensions will be exercised with due care and be fully documented as a decision either way may affect the probity of the process. If a request is received and granted, all potential tenderers must be offered the same extension. However, if a request for extension is refused, the Department may be excluding suitable applicants. Guidance should be sought from PAS and LSB in relation to any request for extension.

It is good practice to specify in the approach to market whether or not requests for extensions will be accepted. A description of the guidelines for extensions should be included in the RFT/RFQ, so all potential tenderers are aware of the procedures that will be followed. A closing date for requests for extensions can also be used to prevent extensions being requested on the morning the proposals are due.

Tender Evaluation and Selection

Departmental Officers only will be responsible for evaluating tenders. No external advisers, specialists, or external parties will be consulted. Each tender needs to be considered in a fair and impartial manner, with no conflicts of interest or bias towards or against certain applicants. Tender assessment related documents are critical documents for ensuring an ethical process. Each part of this stage of the process - assessment, recommendation and decision - must be comprehensively documented and tied explicitly to the assessment criteria.

Note:

i). the evaluation criteria in the approved Tender/Quotation Evaluation Plan must match the published Request for Tender/Quotation criteria.

ii). submissions received **must** be evaluated strictly in accordance with the approved Tender Evaluation Plan, using the approved evaluation criteria.

It is critical that Tender Evaluation Teams ensure that the evaluation criteria are applied consistently and transparently to all tenders. Guidance for evaluation is dealt with in the Evaluation Plan.

Recommendations by the Tender Evaluation Team as to the successful tenderers will be based on a consolidated overall decision, which may be derived from individual proposal assessment reports. If the selection of successful tenderers rests on a trade-off between criteria, this should be made explicit in assessment documents, with the reasoning clearly explained. Full records must present a clear paper trail illustrating how and why specific recommendations were made and decisions taken.

Prior to any formal negotiations with tenderers, Expenditure delegate approval must be obtained, and tenderers must be informed that the discussions are on a “without-prejudice” basis. Contracts with successful tenderers will need formal COMMITMENT APPROVAL from the COMMITMENT APPROVER **before** they are executed. To maintain fairness in the process, separation of duties is important. Personnel involved in assessment of tenders should not be those who are approving the spending of RELEVANT MONEY.

All documents regarding approval of tenderers must be cleared by PAS before forwarding to the delegate.

Tenderers must be notified in writing whether or not they are successful. Once the successful applicant has been advised and after contract executions have been completed, all unsuccessful applicants should be advised of the outcome of their proposal as soon as possible and offered the opportunity of a de-briefing by the Chair of the Evaluation Team.

Managing Problems

In any tendering and procurement process there is always the possibility that actions, errors or omissions may occur that result in a breach of probity requirements. These problems will need to be addressed quickly and in accordance with guidance provided in the probity plan,or advised by the Probity Advisor. These problems will be resolved jointly with PAS.

The question to be addressed when an error occurs is whether the process can continue while still ensuring all tenderers receive, and are perceived to receive, fair and equal treatment. Where the issue can be resolved, tenderers are to be notified of any factors that may affect their proposals and consideration may need to be given to allowing revised proposals from all parties.

The process by which a decision is made can be just as important as the outcome of the decision. There is always a possibility of a challenge to the decision-making process. It is important that it can be clearly demonstrated that decisions were made using ethical processes.

Delegate (name):	Tracey Andrews
Delegate (signature):	s47F [redacted]
Date:	28 October 2022

Reference material and further information: Buying for the Australian Government

Schedule 5 – Request for Quotation

1. Introduction

1.1. This RFQ is issued under clause 11.2 of the Head Agreement for the Management Advisory Services (MAS) Panel Standing Offer Notice (SON3751667) between the Service Provider and the Department of Finance.

Request For Quotation for Services	
Service provider's details	
Service provider	
Agency Information	
Agency	Department of Health and Aged Care
Agency ABN	83 605 426 759
Agency reference	PH21/11013
RFQ reference	Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)
Address:	GPO Box 9848, CANBERRA, ACT, 2601
Agency contact	**Name:** s22 **Position:** Director, Nutrition Policy Section **Email:** s22 @health.gov.au **Agency primary contact number:** (02) 6289 s22 **Agency secondary contact number:**
RFQ and Proposed Order Details	
RFQ Release Date	Monday, 31 October 2022 05:00 PM [17:00] AEDT
RFQ Closing Date	Monday, 14 November 2022 02:00 PM [14:00] AEDT
Proposed Order Commencement Date	Thursday, 15 December 2022
Proposed Order Term and/or Completion Date	Friday, 30 June 2023
Proposed options to extend	Department of Health and Aged Care may extend the term of the Order for a further period (or periods) of up to 2 periods of 6 months in total, which may be taken in whole or in part, and in any number or combination of time periods.
Statement of Work	
Service Area	Commercial Management Advisory Services

Service Category	Government Policy
Service Sub-category	Policy Development and Analysis
Detailed Statement of Work	The Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) has been in place since 1992 as a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia. The MAIF Agreement aligns with the World Health Organization International Code of Marketing of Breast-milk substitutes (WHO Code) and aims to "contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding and by ensuring the proper use of breast milk substitutes, when they are necessary, on the basis of adequate information and through appropriate marketing and distribution." The purpose of the review is to examine whether the MAIF Agreement remains effective in its aim. Consideration will be given to whether Australia has in place sufficient regulatory practices to ensure breast-milk substitutes are not promoted to the public and take into consideration contemporary policy issues relevant to this matter and whether alternate regulatory practices need to be considered. The Review has the following objectives: • Consider contemporary policy issues for infant formula and toddler milk. • Assess the effectiveness of the MAIF Agreement in achieving its aims. • Determine whether the voluntary, self-regulatory approach remains fit for purpose or if alternative regulatory models should be considered. • Assess the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. • Any other related matters as deemed appropriate. Key Review questions: 1. Is the MAIF Agreement effective in achieving its aims? Including protecting and promoting breastfeeding and restricting inappropriate marketing of breastmilk substitutes; ensuring proper use of breastmilk substitutes when they are necessary; and ensuring the provision of adequate information about infant formula products for carers of formula fed infants through appropriate marketing and distribution. 2. Is the scope of the MAIF Agreement appropriate in the current policy environment? Including: range of products captured and how they are defined (including age range for products), issues concerning cross-promotion of products; range of companies/businesses captured by the Agreement - including the possibility of expanding the agreement to retailers and capturing all manufacturers, importers and exporters; and the ability of the MAIF Agreement to respond to all forms of modern marketing techniques including use of all forms of digital marketing (including, but not limited to internet and social media). 3. Are the MAIF Agreement processes appropriate? Including: the complaints process, transparency and timeliness of decision-making and reporting; the operation of the MAIF Complaints Committee and secretariat; the composition of the committee, including appropriate membership and appointments process; and types of complaints and levels of compliance. 4. Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?

	5. What are the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes? Scope In-scope aspects of program: • Agreed Terms of Reference for the MAIF review • All aspects of the MAIF Agreement in its entirety • MAIF Complaints Committee and Secretariat, Complaints Processes • Types of complaints and levels of compliance (e.g. social media posts, advertisements in newspapers or posters). Any context or related activity that needs to be considered: • Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement 2021. • Australian National Breastfeeding Strategy 2019 and Beyond • Previous reviews of the MAIF processes in 2017 and 2012 Key stakeholders for the Review are: • Government • MAIF Signatories • Industry • Public Health advocates • Breastfeeding advocacy groups • Consumers
Deliverables	• Project Plan and Risk Management Plan • Desktop analysis, literature review, scoping • Summary of findings of desktop review/literature review • Consultation and Consultation Summary • Report (including outcomes and recommendations
Milestones	<u>Planning and design phase</u> — <u>Due Dates</u> Project Plan and Risk Management Plan — Dec 2022 <u>Conduct phase</u> Progress updates — Fortnightly Desktop analysis, literature review, scoping — Jan 2023 Stakeholder consultation — March 2023 <u>Reporting phase</u> Results of desktop analysis/literature review — February Results of stakeholder consultation — April/May Evaluation report — June 2023
Subcontractors	Not Applicabe

Location	Not Applicable
Fees	The overall budget for the review, inclusive of GST and any travel costs/expenses, is up to s47D
Payment Terms	20 calendar days for all other invoices
Travel	Not Applicable
Agency Material *Agency Material is defined in the clause 1.1.1 of the Head Agreement as any Material provided by an Agency to the Service Provider for the purposes of a Contract, or derived at any time from that Material.*	The following existing data and information will be made available to the successful Panellist: • MAIF Agreement • Reports on the previous reviews of the MAIF Agreement and the MAIF complaints process • Data and information regarding recent complaints received • the Australian National Breastfeeding Strategy 2019 and Beyond and related consultation report (2019) • the Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement report (2021) • available published literature on breastfeeding, formula feeding, marketing of breastmilk substitutes, and related research.
Existing Material *Will any Existing Material be made available to the Agency under the Order? Existing Material is defined in clause 1.1.1 of the Head Agreement as:* *(a) any pre-existing Material including any improvements, modifications or enhancements to such pre-existing Material in performing the Services; and* *(b) any other Material, created independently of an Order after the Order Commencement Date.* *which is made available to the Agency by the Service Provider for the purpose of a Contract, on or following the Order Commencement Date, including but not limited to the Service Provider's tools, methodologies and object libraries and any improvements, enhancements, alterations and modifications to such Material.*	The following existing data and information will be made available to the successful Panellist: • MAIF Agreement • Reports on the previous reviews of the MAIF Agreement and the MAIF complaints process • Data and information regarding recent complaints received • the Australian National Breastfeeding Strategy 2019 and Beyond and related consultation report (2019) • the Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement report (2021) • available published literature on breastfeeding, formula feeding, marketing of breastmilk substitutes, and related research.

Contract Material *Other than specified in the Statement of Work, insert details of Contract Material relevant to the Order. Clause 1.1.1 of the Head Agreement defines Contract Material as any Material:* *(a) created by the Service Provider for the purposes of a Contract*	Summary of literature review/desktop research Summary of stakeholder consultation Final report (including recommendations and potential options for regulatory reform/legislation)
Confidential information	Not Applicable
Key personnel requirements	
Key personnel	The Panellist should provide: • a rationale for the team structure and balance, and a description of how the team will work together, and their individual roles and responsibilities and allocated days • evidence that the Panellist's specified personnel have proven knowledge of Australia's health system, government policy, regulatory approaches/frameworks and in particular the MAIF Agreement; and • proven skills and experience of the proposed approach/methodologies including: research/literature review and analysis of relevant bodies of work, international policy review and analysis, cost-benefit analysis and knowledge of food regulation and legislation • in case of a consortium, details of how the consortium members will work together and the contribution of each member to the consortium. • the Panellist should provide a brief curriculum vitae for all specified personnel and subcontractors (if any) identifying their qualifications, work history and contribution to relevant projects. Each curricula vitae should be no more than two pages. Panellist experience: The Panellist should provide a detailed summary of 5 to 10 relevant, recent and comparable projects. Summaries should clearly specify which of the specified personnel were involved in each of the projects and the dollar value of the project. Security clearance required: No
Other requirements for Key Personnel	Panellists' must give details of any real or apparent Conflict of Interest in relation to this response, or the performance of the Services.
Additional requirements	
Agency data storage requirements	Not Applicable

Agency security requirements	Not Applicable
Security clearance requirements	Not Applicable
Liability	Not Applicable
Agency insurance requirements	Please upon providing a response quoting the scope of work sought in this RFQ, outline your organisation's insurance information to the procuring Agency, to confirm compliance against Clause 18 of the MAS Panel Head Agreement.
Conditions/Restrictions for Personal Information	Not Applicable
Commonwealth Procurement Connected Policy Requirements	
Black Economy Policy	Not Applicable
Indigenous Procurement Policy	Not Applicable
Australian Industry Participation Policy	Not Applicable
Evaluation criteria	
Responses	**Responses to this RFQ will be evaluated against the following criteria:** The Service Provider's demonstrated understanding of the Services required, including the identification of any key challenges and the management of risk. The Service Provider's demonstrated capability and capacity to provide the services described in the Detailed Statement of Work to a very high standard and within the specified timeframes. The Service Provider's demonstrated organisational experience in providing the similar services to the services described in the Detailed Statement of Work. The relevant experience of nominated Key Personnel in providing the similar services to the services described in the Detailed Statement of Work [include any relevant qualifications, certifications, etc. required]. The professional and other standards that your organisation would apply to the Services and the measures your organisation proposes to ensure that standards are maintained for the term of the Contract. The extent to which the level and structure of fees proposed provides value for money for the Australian Government.

Quote Evaluation Plan

for

Consultancy services for review of the Marketing of Infant Formulas: Manufacturers and Importers Agreement

under Whole of Australian Government Panel – SON3751667

Approach to Market ID: Health/E21-146339

ISSUED 21/10/2022

Delegate approval of this Evaluation Plan Name: Tracey Andrews Position: A/g Assistant Secretary, Preventative Health and Food Branch Signature: s47F [redacted] Date **28/10/2022**	☑ Approved ☐ Not approved (please notate any comments/conditions)

1. SCHEDULE FOR THIS REQUEST FOR QUOTATION

Activity	Indicative Timing
Release of RFQ	**24 October 2022**
Enquiry Cut-Off Date (if any)	**1 November 1400 ACT Local time**
Closing Time	**7 November 1400 ACT Local Time**
Negotiation with preferred Supplier	**14 November 2022**
Execution of Contract with successful Supplier	**6 December 2022**
Notification of unsuccessful potential Suppliers	**6 December 2022**
Commencement of Services	**15 December 2022**

2. PURPOSE

The purpose of this Quote Evaluation Plan (QEP) is to minimise risks to the Commonwealth arising from the Evaluation Process and to ensure that the Request for Quotation (RFQ) process is conducted fairly, transparently and in accordance with the RFQ and the Commonwealth Procurement Rules.

This QEP is an internal Departmental document and when populated, should be classified as Commercial-In-Confidence. It should not be shown to any person other than the personnel listed under section 5 below without the permission of the Delegate.

If there is an inconsistency between this QEP and the RFQ, the RFQ prevails.

Any material changes to the Quote Evaluation Process set out in this QEP must be approved in writing by the Delegate, including:

- Quote Evaluation Process governance arrangements;
- the process for selecting any preferred Potential Supplier;
- the process for excluding any unsuccessful Potential Supplier/s;
- any material changes to the Quote Evaluation Process, as determined by the Chair in consultation with the Probity Adviser; and,
- Changes to the Quote Evaluation Team.

The Chair should seek the advice of the Probity Adviser prior to any changes to this QEP.

3. BASIC PRINCIPLES

In conducting the evaluation of Quotations, the Quote Evaluation Team must assess Quotations against the Evaluation Criteria set out in the RFQ and in accordance with the methodology set out in this QEP.

The Evaluation Criteria used in the RFQ must be replicated in this QEP and in any evaluation assessment forms or tools.

The success of the Quote Evaluation Process will depend on the protection of the process from improper influence by internal or external sources, and on fair dealing during the Quote Evaluation Process.

The Procurement Advisory Service (PAS) can act as the default Probity Adviser if required.

The Legal and General Council Division (LGCD) acts as default Legal Adviser if required.

The Quote Evaluation Report must clearly substantiate recommendations and demonstrate how the preferred Potential Supplier/s (if any) best meets the Department's requirements as specified in the RFQ and are best value for money.

4. PROBITY PROTOCOLS

Probity is the evidence of ethical behavior, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process. These probity principles will contribute to sound decision-making and equal opportunities for all participants.

Confidentiality

All personnel involved in the RFQ process are under a duty of confidentiality in respect of the information provided by Potential Suppliers and information about the Quote Evaluation Process. This duty means that it is not permissible to communicate information outside the Quote Evaluation Team, in particular to other Commonwealth officers who are not involved in this procurement, except with the permission of the Chair.

A person may not have access to any Confidential Information (inclusive of Quotations, proposals and evaluation material) unless authorised by the Chair.

The Chair must ensure that the Evaluation Team only has access to information to the extent necessary to enable the efficient conduct of the RFQ (i.e. on a "need to know" basis). The Chair will also consider what information is required by Advisers in order for them to provide advice when requested.

Documents (both hardcopy and electronic format) comprising the Quotations may only be copied or reproduced with the prior approval of the Chair.

Conflicts of Interest

It is essential that Quote Evaluation Team personnel be free from any real, potential or perceived conflict of interest. Quote Evaluation Team personnel will be required to:

- prior to the commencement of the Quote Evaluation Process - sign the Conflict of Interest Disclosure and Confidentiality Statements (**Attachment A**); and
- on an ongoing basis and as requested by the Chair - notify the Chair of any circumstance, including any prior or proposed association with prospective Potential Suppliers, which could possibly be construed as representing a conflict of interest.

A conflict of interest will exist if:

- through any dealings or relationship with a Potential Supplier or any related body, a member of the Evaluation Team or his or her family might gain a benefit or advantage from the outcome of the Quote Evaluation Process; or
- there is any other reason why a Member of the Quote Evaluation Team might not deal with a Quotation or a Potential Supplier in an objective manner.

A perceived conflict of interest may exist where the person is in a position to appear conflicted as set out above.

A potential conflict of interest may exist where the person may or is likely to become subject to a conflict of interest in the future.

The Delegate may deal with a conflict of interest as the Delegate sees fit, and may remove a Quote Evaluation Team member. The member must immediately comply with any such direction of the Delegate and take any associated action, such as for the return of working papers, as requested.

Communication with Panel Members

The attention of personnel involved in a Quote Evaluation Process must ensure Contact Officer instructions of the RFQ are followed.

Any person other than the Contact Officer who is contacted by a Potential Supplier must report such contact immediately to the Chair. The Chair will consult with the Probity Adviser and/or Legal Adviser and make a recommendation to the Delegate as to what action is to be taken.

The Contact Officer is responsible for the coordination of all communications with Potential Suppliers from RFQ release through to completion of the RFQ process.

The Department may, through the Contact Officer, provide answers to any reasonable enquiry from a prospective Potential Supplier that is received by the Department before the Enquiry Cut-Off Date set out in the RFQ, in which case:

- Questions and related answers may be disclosed to all prospective Potential Suppliers via **AusTender DS4P** (without disclosing the source of the questions); and
- Any Potential Supplier Confidential Information contained in a question (that is expressly nominated as such by the relevant Potential Supplier and agreed to by the Department) will be removed prior to disclosure **AusTender DS4P.**

Business As Usual

The Department recognises that an incumbent service provider may have a potential advantage over other Potential Suppliers in terms of their understanding of the environment in which the Department operates. There is also a higher risk of an incumbent service provider obtaining Confidential Information relating to the Quote Evaluation Process, because of their day to day interaction with the Department.

Accordingly, it is essential in order to maintain the probity of the Quote Evaluation Process that as far as practical the Department treats an incumbent service provider in the same way that it treats other Potential Suppliers and ensures an equitable access to information that may be relevant to the outcome of the Quote Evaluation Process.

The Department also recognises that business as usual functions will need to continue, and Evaluation Team will need to continue to work with an incumbent service provider for the purpose of ongoing contract management.

However, as part of "business as usual", Quote Evaluation Team personnel and other stakeholders should not enter into discussions with an incumbent service provider in respect of the RFQ. If questioned directly about the RFQ, the Evaluation Team personnel should advise the person that the matter cannot be discussed and report the contact to the Chair.

Quote Evaluation Team personnel and Advisers should ensure that:

- Material relating to the procurement is stored securely and separately from their business as usual material; and
- They do not conduct work in relation to the procurement in a location that the incumbent service provider's personnel are able to view related material (eg a shared working environment).

The Chair must ensure that any material that will be released to Potential Suppliers does not contain information that constitutes the incumbent service providers proprietary or Confidential Information.

Except where approved by the Probity Advisor after consultation with the Chair or as part of attendance at negotiations, any members of the Department who are on the Quote Evaluation Team will not interact with the incumbent service provider during the period from the Closing Time until the execution of the Work Order/Official Order (Contract).

Documentation

There must be a clear audit trail of the Quote Evaluation Process to ensure:

- the Evaluation Team have acted consistently and logically and in accordance with the RFQ and this QEP; and
- that the basis for the recommendations in the Quote Evaluation Report can be substantiated.

All conclusions and decisions are to be recorded, including the process and deliberations on which they are based. All judgments on technical and other matters are to be supported, so far as possible, by documentary evidence.

All records are to be retained by the Department in accordance with the *Archives Act 1983* and the Department's record management policies.

Security

All electronic and hard copies of Quotations, and any documents related to the Quote Evaluation Process must be managed and protected.

Where the Department's systems permit, Quotation information must only be made available to the Quote Evaluation Team via secure electronic directories with permissions appropriate to the Quote Evaluation Team personnel's' role.

Any meetings or discussions by the Quote Evaluation Team should take place either in person or over private conference calls (or video calls) where each personnel or Adviser takes part from a private room at their location.

The Quote Evaluation Team must ensure that documents and portable data store facilities (such as CD/DVD or memory sticks) in their possession or control containing Quotation information are:

- kept in locked offices and/or locked filing cabinets when not in use;
- not left unattended for any period of time;
- not displayed at times or in places where they could be read by unauthorised persons; and
- not made available to a person who is unauthorised.

Quotation information which is no longer required is to be considered classified waste and are to be disposed of according to the Department's disposal policies.

5. THE EVALUATION TEAM

The Evaluation Team comprises:

Name	Position	Voting or Non-voting
Tracey Andrews	Delegate	Non-voting
s22 [redacted]	Chair	Voting
	Evaluation Team Member	Voting
	Evaluation Team Member	Voting

The role and responsibilities of the Evaluation Team is at **Attachment B**.

6. EVALUATION CRITERIA

Quotations will be evaluated using the following evaluation criteria and weightings:

Evaluation Criteria	Weighting %
The extent to which the Potential Supplier's Quotation meets the Customer's requirement set out in the RFQ. - Understanding of requirement for project scope - Quality of proposed project plan - Quality of proposed consultation plan - Quality of risk assessment, including an understanding of sensitivities	70%
The Potential Supplier's proven capacity to provide the requirement. - Appropriate experience and skills of identified personnel - Availability of specified personnel and time required	20%
The Potential Supplier's prior performance on comparable projects: - Quality of examples - Dependability	10%
The total costs to be incurred by the Customer (the Department).	Not weighted.
The risk associated with the quotation/proposal.	Not weighted.
Total Weighted Score	**100%**

7. EVALUATION PROCESS

The Chair shall brief the Evaluation Team on the evaluation process and methodology prior to the commencement of the evaluation.

The evaluation proforma to be used is at **Attachment C**.

The evaluation process consists of the following stages:

Stage 1: Mandatory Criteria / Conditions for Participation Assessment

Stage 2: Weighted Evaluation Criteria - Individual Scoring

Stage 3: Weighted Evaluation Criteria - Consensus Scoring

Stage 4: Value for Money Assessment

Stage 5: Overall Assessment and Comparison

Stage 1: Mandatory Criteria / Conditions for Participation Assessment

Any Quotation which cannot meet the Conditions for Participation below will not be considered further.

Mandatory Criteria / Conditions for Participation
No conditions for participation

Stage 2: Weighted Evaluation Criteria - Individual Scoring

If the Quotation meets the Stage 1 evaluation, then it is to be evaluated based on the weighted evaluation criteria. Each Quotation is scored out of 5 for each criterion. The Points Score table is:

Rating	Definition
5 (Very Good)	The Quotation satisfies the evaluation criterion to a very high standard and presents minimal or no risk to the Commonwealth and its claims are fully supported by the information provided.
4 (Good)	The Quotation satisfies the evaluation criterion to a high standard and/or presents limited risk to the Commonwealth. The Tenderer's claims are supported by the information provided.
3 (Satisfactory)	The Quotation satisfies the evaluation criterion to a satisfactory degree and/or presents an acceptable level of risk to the Commonwealth. There are some minor deficiencies and shortcomings in the information provided.
2* (Poor)	The Quotation barely satisfies the evaluation criterion and/or presents some degree of unacceptable risk to the Commonwealth. There are major deficiencies in the information provided.
1* (Unsatisfactory)	The Quotation does not satisfy the evaluation criterion and/or presents an unacceptable level of risk to the Commonwealth.

* A 'Poor' or 'Unsatisfactory' rating for one or more evaluation criteria **will exclude** the Potential Supplier from further participation in the procurement process.

Stage 3: Weighted Evaluation Criteria - Consensus Scoring

At the completion of individual scoring by the Evaluation Team members, the Evaluation Team will convene to consider individual scoring and reach a consensus score for all responses to the weighted evaluation criteria. The consensus evaluation will be based on individual assessments and discussion. The reasons for the consensus scores are to be documented.

Stage 4: Value for Money

The total cost shall be divided by the weighted score to determine the Value for Money index for each offer:

$$\frac{\text{Total Cost}}{\text{Total Weighted Score}}$$

The lowest Value for Money ratio indicates the best value option.

Stage 5: Overall Assessment and Comparison

The Evaluation Team will undertake an overall assessment and comparison of weighted scores, value for money outcomes, risks issues and provide (if applicable) a short-listing of Potential Suppliers listed in order-of-merit according to the overall score achieved.

Reference checks and presentations by Potential Suppliers shall be undertaken at this stage if applicable.

The number of Potential Suppliers shortlisted will be determined by the Evaluation Team.

Negotiations shall be held with shortlisted Potential Suppliers if required.

Following finalisation of the selection of the successful Potential Supplier/s, the Evaluation Team shall document the results for consideration by the delegate.

8. EVALUATION TEAM SIGN-OFF AND APPROVALS

I understand my role and responsibility as an Evaluation Team member. I acknowledge that I will be given access to information pertaining to or in respect of the evaluation process for this procurement and that all information that is acquired by me (whether by verbal or written means) in the course of my duties, is strictly confidential. I undertake that I shall not at any given time, disclose or reveal to any other party or

person, or use or copy for any purpose other than in the discharge of my duties as a member of the evaluation team, such information without first obtaining the written consent of the Chair.

All documents, reports and information discussed within the evaluation process will be treated as commercial-in-confidence and stored appropriately. Information and documentation will be kept secure at all times and not be divulged or given to any persons not directly involved in the evaluation process.

I agree to keep the results of this evaluation process confidential.

I declare that to the best of my knowledge I do not have any:

- financial interest in the project;
- relatives or friends with a financial interest in the project;
- personal bias or inclination which would in any way affect my decisions in relation to the project; and
- personal obligation, allegiance or loyalty which would in any way affect my decisions in relation to the project.

I undertake to notify the Chair, Evaluation Team immediately in writing if prior to or during the evaluation process, a conflict of interest arises or appears likely to arise, and will complete a Conflict of Interest Disclosure and Confidentiality Statement in the form of Attachment A to this QEP.

I have read this Evaluation Plan and agree to abide by it.

Evaluation Team members:

Name / Position	Signed	Date
Tracey Andrews (Delegate)	s47F [redacted]	28/10/2022
s22 [redacted]		

APPROVED BY:

I approve this Quote Evaluation Plan.

Delegate Name / Position	Signed	Date
Tracey Andrews Assistant Secretary (a/g), Preventative Health and Food Branch	s47F [redacted]	28/10/2022

Attachments:

A. Conflict of Interest Disclosure and Confidentiality Statement template

B. Role and responsibilities of the Evaluation Team

C. Evaluation Worksheet – Individual Scoring template

CONFLICT OF INTEREST DISCLOSURE AND CONFIDENTIALITY STATEMENT

1. I have been asked to disclose any interests that I may have which might preclude me from undertaking my role as a Member of the Quote Evaluation Team, the Delegate or being otherwise involved in the evaluation or negotiation of quotations to the Request for Quote (RFQ) being undertaken by the Department of Health and Aged Care for the procurement of services for the Marketing in Australia of Infant Formulas: Manufacturers and Importers (MAIF) Agreement Review (**the Process**).

2. To the best of my knowledge and belief, I:

   (a) have not had, do not have and am unlikely to have in the future, any relationship (whether professional, commercial or personal) with any of the potential suppliers or known likely potential suppliers, or their employees for this project or related bodies, such that:

      (i) myself or an associate or member of my family stands to gain a benefit or advantage from the outcome of the Process; or

      (ii) I might not deal with a quotation or a potential supplier in an objective manner; or

   (b) make the disclosures described below.

3. I am aware of the Department's requirement for probity in the Process and if I subsequently discover that there is a relationship of a kind mentioned in paragraph 2 with any of the potential suppliers or known likely potential suppliers their employees or related bodies, I will immediately report it to the Chair of the evaluation team or probity adviser.

4. I will also immediately report to the Chair of the evaluation team or probity adviser any contact that I have with any potential supplier or known likely potential suppliers, or their employees or related bodies, which is not officially authorised, including any approach made to me in the way of a direct or implied offer of future employment or other benefit.

5. I will treat as confidential all evaluation and negotiation information in accordance with the request for quotation documentation and keep secure all associated documentation to which I have access in accordance with the applicable probity plan. I will not disclose this information without the prior written authority of the Chair of the quote evaluation team.

6. I will immediately disclose any conflict that arises or breach that occurs subsequent to signing this declaration to the Chair of the quote evaluation team. In the event that the person making the disclosure is the Chair of the quote evaluation team or the delegate, the disclosure will be made to the probity adviser.

Signed: ……

Date: ……

Witnessed: ……

Set out below or attach any other disclosure by the signatory, as required:

Delegate

The Delegate is responsible for the final decision as to which Panel Member or Panel Members should be awarded a Contract or Contracts. The Delegate is also responsible for the following decisions:

- appointing the Chair;
- appointing and approving changes to Members of the Quote Evaluation Team;
- the exclusion of a Panel Member from the Quote Evaluation Process, including by deciding:
  - whether a Quotation is late;
  - whether a Quotation has not satisfied a Condition for Participation; and
  - the shortlisting of Quotations (if required);
- whether to terminate the RFQ process;
- adopting or not adopting the recommendations of the Quote Evaluation Team, including taking into consideration any minority report or recommendation of the Quote Evaluation Team; and
- considering and deciding any other significant issues when the Chair seeks the Delegate's input.

The Delegate will also resolve issues in relation to conflict of interest as required, which may be raised by any Member of the Quote Evaluation Team. Should a conflict of interest issue arise in relation to the Delegate, this will be resolved by the Delegate's supervisor with advice from the Probity Adviser and/or Legal Adviser.

The Delegate may appoint a negotiator or negotiators to negotiate the Contract with the preferred Panel Member.

Chair

The Chair is responsible for managing the Quote Evaluation Process and for ensuring that the process undertaken complies with Commonwealth policies, this Quote Evaluation Plan and the RFQ. The Chair must ensure all persons involved in the evaluation of Quotations have signed Conflict of Interest and Confidentiality Statements in the form of Attachment A and that those persons maintain, on an ongoing basis, the currency of the statements made in those documents.

The Chair must ensure that procedures for the opening, registration, distribution to the Quote Evaluation Team and safekeeping of Quotations.

The Chair must organise the recording of all aspects of the Quote Evaluation Process on a commercial-in-confidence registry file and according to Departmental record-keeping policies and procedures.

The Chair is responsible for:

- coordinating and conducting Team meetings and for liaising with the Delegate;
- obtaining from the Delegate decisions in relation to the exclusion of Quotations and the shortlisting of Tenderers;
- coordinating the use of Advisers as and when needed;
- nominating Members to contact referees (if Tenderer's referees are required); and
- approving clarification questions to Tenderers.

The Chair and the Evaluation Team are responsible for preparing the Quote Evaluation Report, including the making of recommendations, and submitting it to the Delegate.

Evaluation Team

The Quote Evaluation Team is responsible for assessing the Quotations against the Evaluation Criteria and making a recommendation or recommendations to the Delegate.

Team meetings will be conducted in a secure office environment or, if necessary, by teleconferencing.

All Members of the Quote Evaluation Team must read this Quote Evaluation Plan and the entire RFQ, including the Draft Contract. Members cannot be in a position to evaluate Quotations without full knowledge of what is being sought by the Commonwealth and term and conditions on which the procurement is to occur.

Each Member is also responsible for:

- seeking advice from Advisers, through the Chair, as required;
- identifying where clarification is required from Tenderers and, through the Chair, seeking advice

Probity Adviser

The role of the Probity Adviser (if required) in the Quote Evaluation Process is to advise the Chair and if necessary, the Delegate on the probity aspects of the Quote Evaluation Process.

Where an external Probity Adviser is appointed, the appointment should be made prior to the release of the RFQ and the scope of work should include the following:

- providing comment on the RFQ and this Quote Evaluation Plan;
- attending meetings as requested by the Chair;
- providing ongoing advice on procedural and probity issues arising during the RFQ process;
- providing comments on the Quote Evaluation Report or other reports;
- providing independent "sign off" that the Quote Evaluation Process has been performed in accordance

from the Legal Adviser and Probity Adviser on submitting clarifying questions to Tenderers; and • immediately notifying the Chair of any conflict of interest issues as and when they arise. The Quote Evaluation Team and the Chair are responsible for preparing the Quote Evaluation Report, including the making of recommendations, and submitting it to the Delegate.	with probity requirements, this Quote Evaluation Plan and the RFQ; and • liaison as necessary with the Legal Adviser. If a Quote Evaluation Team Member has any concerns in relation to the conduct of the Evaluation Process he or she should contact the Probity Adviser. These concerns may include possible conflicts of interest, incorrect disclosure of confidential information or Quote Evaluation Process irregularities. If a Probity Plan is not used, "sign off" from the external Probity Adviser (if any) should be specifically sought prior to approaching the market and before a recommendation is put to the Delegate following the Quote Evaluation Process.
Technical Subject Matter Expert Advisers have no role in recommending or deciding the outcome of the Quote Evaluation Process. They are available for consultation and assistance in their areas of expertise. Decisions about when an Adviser is to be used must be made by the Chair.	**Contact Officer** The RFQ nominates a Contact Officer for RFQ enquiries. This officer should not be the Chair to ensure that there is clear separation between day-to-day contact with Tenderers and potential Tenderers and the management of the Quote Evaluation Process. All enquiries, whether from the Department to a Tenderer or from a Tenderer to the Department, must be communicated by or to the Contact Officer in writing. The Contact Officer must consult with the Chair in connection with any proposed or actual communications with or from Panel Members.

Quote Evaluation Worksheet

RFQ ID and Title:	
Name of Evaluation Member:	
Supplier Name:	

Evaluation Criteria (per Section 6 of the QEP)	**Weighting %**	**Raw Weight** = x/5*weight	**Evaluation Comments**
Insert criteria per section 6 of the QEP			*Insert evaluation comments*
Insert criteria per section 6 of the QEP			*Insert evaluation comments*
Insert criteria per section 6 of the QEP			*Insert evaluation comments*
The total costs to be incurred by the Customer (the Department).	N/A		*Insert the total cost of the quotation including travel, additional fees and charges.*
The risk associated with the quotation/proposal.	N/A		*Outline the risks associated with the quotation and potentially entering into contract with the supplier, and insert overall risk rating (Low, Medium or High).*
Total Weighted Score	**100%**	***Insert total***	

Once the above individual evaluation and scoring is completed, an Evaluation Summary is available to capture the overall scoring for each Supplier.

Evaluation Summary - VFM scor