



Australian Government

AusAID

9 October 2010

Request for Tender Capability Statement

Papua New Guinea Sub-National Strategy

REQUEST FOR TENDER

Papua New Guinea Sub-National Strategy

AusAID is seeking statements from Organisations interested in providing services for the PNG Sub-National Strategy (the “**Project**”). If your Organisation chooses to lodge a statement (the “**Capability Statement**”) setting out the Organisation’s capability to provide the services required for the Project (the “**Services**”), it must be submitted on the terms of this document and the attached Parts (together referred to as the “**Request for Tender**” or “**RFT**”).

No pricing information should be included in the Capability Statement as no price assessment will be made at this stage.

STRUCTURE OF THE RFT

The RFT is separated into three Parts. References in the RFT to Parts are to Parts of this RFT.

Part 1 details the Project Specific Capability Statement Conditions (**Part 1**). Part 2 details the Standard Capability Statement Conditions (**Part 2**).

Organisations submitting Capability Statements are encouraged to fully inform themselves of the Capability Statement Conditions (both Project Specific and Standard) when preparing their statements and to make any enquiries before the enquiry closing time as detailed in Clause 2.3 of Part 2.

AusAID will select from those Organisations submitting Capability Statements a shortlist of Organisations that will be asked to provide detailed proposals for the Services. Your Organisation will be advised by AusAID whether it has been shortlisted.

This RFT supersedes any other information or advice provided by AusAID in relation to the Services.

AusAID Contracts Charter

AusAID has published a Contracts Charter describing AusAID’s approach to contracting aid activities, expectations of contractors and what contractors may expect from AusAID. Tenderers are encouraged to access and inform themselves of the Charter which is available on URL: <http://www.ausaid.gov.au/business/pdf/charter.pdf>

PART 1 – PROJECT SPECIFIC CAPABILITY STATEMENT CONDITIONS

1. CAPABILITY STATEMENT PARTICULARS

Closing Time:

(Clause 1.1, Part 2)

2.00pm local time in Canberra
Australian Capital Territory, 23 November 2010

Mode of Submission:

(Clause 1.1, Part 2)

Either:

- Electronically, via AusTender at <https://tenders.gov.au> before the **Closing Time**;

or

- in hard copy, by depositing by hand in the Canberra Tender Box before the **Closing Time**.

Electronic Tender Lodgement

Address:

(Clause 1.10, Part 2)

Via AusTender at <https://tenders.gov.au>

Canberra Tender Box Address:

(Clause 1.14, Part 2)

Tender Box
Ground Floor
AusAID
255 London Circuit
Canberra ACT 2601 AUSTRALIA.

File Format for Electronic Capability Statements:

(Clause 7.1, Part 2)

PDF (Portable Document Format)

Business Hours for hard copy lodgement:

(Clause 1.14, Part 2)

Monday to Friday, 8.30am to 5.00pm
local time in Canberra, Australian Capital Territory
Excluding Public holidays.

Number of Copies of Capability Statement:

(Clause 1.7, Part 2)

For electronic lodgement

- One (1) electronic copy.

For hard copy lodgement:

- One (1) Original (marked “Original”) plus four (4) copies; and
- One (1) CD containing an electronic copy.

Endorsement of Hard Copy Capability Statements:

(Clause 1.16, Part 2)

“Capability Statement for the PNG Sub-National Strategy Program”

Contact Person:

(Clause 2.1, Part 2)

Contact fax:

+61 2 62064877

Contact Email Address:

SNS2@ausaid.gov.au

Page limits:

(Clauses 7.1(e), Part 2)

Capability Statement: Twelve (12) pages plus annexes

Information:

The following documents are attached:

- (1) Draft Scope of Services;
- (2) Note “Sub National Strategy Update October 2010”;
- (3) SNP Phase 1 Design Document;
- (4) SNS Mid Term Review, Final Report, 2009; and
- (5) Word versions of:
 - (a) Past Experience Form;
 - (b) Capability Statement Declaration; and
 - (c) Organisational checklist.

The documents are available from the AusTender website: <https://www.tenders.gov.au/>

2. INDUSTRY BRIEFING

- 2.1 AusAID intends to hold an industry briefing at Level 4, Deloitte Tower, Port Moresby at 9:00am on 26 October 2010.
- 2.2 Organisations planning to attend the industry briefing are requested to send advanced notification, indicating the name of the organisation and the number of people planning to attend to SNS2@ausaid.gov.au by COB 22 October 2010.

3. CAPABILITY STATEMENTS

- 3.1 The Capability Statement must contain all information required in the following format:
 - (a) that substantively and individually addresses the selection criteria provided in **Clause 4.1 of this Part**; and
 - (b) includes the required annexes included in **Clause 4.2 of this Part**.

4. RESPONSE TO SELECTION CRITERIA**4.1 Selection Criteria**

The following criteria will be used to establish a short list on the basis of technical merit:

A. Approach to the Program (Weighting 70%)

- (a) Management and administrative personnel 20%

Details of the proposed Program managers and administrators, their qualifications, expertise and current level in the Organisation.

- (b) Financial management systems 15%
- The extent the Organisation's financial and administrative project management systems are capable of supporting this Program and reporting requirements proposed to be utilised.
- (c) Project management arrangements 20%
- (i) The extent of the Organisation's management arrangements to support this Program in rural and remote locations. How will your Organisation manage the SNS Program?
- (ii) What will be the roles and responsibilities of management staff? How much time will staff apply to the SNS Program? What is their level of authority and technical expertise?
- (iii) The extent to which they are capable to scale up and down depending on program strategy as determined by the Governments of Australia and PNG. What is their capacity to offer sound advice to support effective program implementation?
- (iv) What are your organisation's quality assurance arrangements for reporting and milestones and process/outcome monitoring arrangements.
- (d) Experience 15%
- (i) The extent of the Organisation's experience in implementing and supporting similar programs.
- (ii) Ability to recruit, support and retain long term quality technical assistance.
- (iii) This narrative is to be supported by Past Experience Forms (Annex 1).

B. Approach to Key Issues (Weighting 30%)

Tenderers are required to demonstrate their understanding and appreciation of the key issues and critical points related to the SNS Program including, the recruitment and delivery of quality capacity building assistance for rural and remote areas in the context of a decentralised system of Government.

4.2 Annexes

Annex 1 – Past Experience Forms

Details of relevant activities or projects in which the Organisation has been involved which demonstrate the Organisation's ability to fulfil the objectives of the Project. This annex must not contain more than five (5) examples and details of each activity must not exceed one (1) A4 page. The information must be presented in the format identified below: If an Organisation submits a Capability Statement in association with another organisation, the total number of Capability Statements submitted must still not exceed five (5) examples.

PAST EXPERIENCE FORM

Activity Name:			
Activity Value:			
Activity Location(s):			
Activity Duration			
Client/Donor:			
Year Completed:			
Brief description of the activity and the Organisation's role:			
Brief description of activity outcomes:			
Statement of the similarities between this activity and the requirements of the activity currently being tendered and how this activity supports your statements addressing the Statement of Service Capabilities:			
Nominated Activity Referees:			
1. Name:		2. Name:	
Address:		Address:	
Email:		Email:	
Phone:		Phone:	

AusAID reserves the right to verify the accuracy of information with such persons as AusAID may choose.

Organisations must provide information in the Referees section of the Past Experience Forms in accordance with **Clause 8, Part 2**.

Annex 2 – Letters of Association and other details of other proposed sub-contractors

Clause 9.2(b), Part 2 requires that AusAID is provided with assurance of the Associate's corporate commitment and involvement in the Project in the form of a single page Letter of Association.

Clause 9.3, Part 2 also requires that details are provided for other work to be sub-contracted and proposed sub-contractors, where these are reasonably known at the time of submitting this capability statement and who have made known their willingness to be involved with the Project limited to a single page per organisation.

Annex 3 – Commonwealth Government Policies Compliance

Organisations are required to disclose in this annex if they are non compliant and/or have (or have had) issues associated with policies named in **Clause 18, Part 2**.

Clause 18.6, Part 2 refers to the World Bank List and similar lists maintained by other donors of development funding. **Clause 14.4, Part 2** requires each Organisation to disclose, in its Capability Statement, the information specified in that clause regarding investigations, proceedings, informal processes, temporary suspension and listing by the World Bank or any other donor of development funding. Organisation must disclose any relevant information in this annex.

PART 2 – STANDARD CAPABILITY STATEMENT CONDITIONS

Bolded words are defined in **Clause 1, Part 1** (Capability Statement Particulars) of this RFT.

1. LODGEMENT OF CAPABILITY STATEMENTS

1.1 Capability Statements must be lodged either:

- (a) Electronically, via AusTender at <https://tenders.gov.au> before the **Closing Time** and in accordance with the lodgement procedures set out in **Annex C to this Part** and on AusTender; or
- (b) Physically, by depositing by hand in the Canberra Tender Box before the **Closing Time**.

- 1.2 AusAID's preference is for electronic lodgement of Capability Statements. However, if electronic lodgement is not possible, you may lodge a hard copy of your Capability Statement instead.
- 1.3 Organisations must include all information specified in this RFT in their Capability Statement. Organisations accept that their failure to provide all information required, in the format specified will result in their Capability Statement being considered as a non-conforming Capability Statement and liable to rejection.
- 1.4 All documentation submitted in the Capability Statements must be in English.
- 1.5 Capability Statements submitted by email or facsimile will not be considered
- 1.6 Organisations must include all information specified in this RFT in their Capability Statement. Organisations accept that their failure to provide all information required, in the format specified will result in their Capability Statement being considered as non-conforming and liable to rejection.
- 1.7 Organisations must submit the number of copies specified in the Capability Statement Particulars (**Clause 1 of Part 1**). Different numbers of copies may be required for hard copy lodgement and for electronic lodgement.
- 1.8 A person or persons having authority to lodge the Capability Statement and enter into a contract on behalf of the Organisation must sign the Capability Statement Declaration (**Annex B to this Part**) and submit the completed form along with the Capability Statement.
- 1.9 AusAID may extend the **Closing Time** at its sole and absolute discretion, and will issue an Addendum notifying any decision to extend.

Conditions Applying to Electronic Capability Statement Lodgement

- 1.10 Electronic Capability Statements must be lodged electronically via the Australian Government Tender System, AusTender, at <https://www.tenders.gov.au> before the **Closing**

Time and in accordance with the lodgement procedures set out in **Annex C to this Part** and on AusTender.

- 1.11 Where there is any inconsistency between the lodgement procedures set out on AusTender and those set out in this RFT, this RFT will prevail.
- 1.12 Capability Statements not submitted in accordance with **Clause 7.1 of this Part** will be excluded from evaluation.
- 1.13 It is the responsibility of Organisations to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither AusAID nor the Commonwealth takes any responsibility for any problems arising from Organisation's infrastructure and/or Internet connectivity.

Conditions Applying to Hard Copy Capability Statement Lodgement

- 1.14 For hard copy lodgement, the Organisation is responsible for the delivery of their Capability Statement. The Capability Statement must be placed in AusAID's **Canberra Tender Box**. The Capability Statement must be delivered during **Business Hours** by the **Closing Time**. Failure to submit a Capability Statement in accordance with this clause may render the Capability Statement liable to rejection.
- 1.15 The Original Capability Statement document and any copies requested should be bound using a plastic comb binding, and should contain no plastic page separators.
- 1.16 The Capability Statements should be endorsed with the name of the Project and marked: "Tender Box: Attention Procurement and Agreement Services".

2. ENQUIRIES

- 2.1 Any enquiries that Organisations may have must only be directed to the **Contact Email Address** or **Contact Fax Number**.
- 2.2 If an Organisation:
 - (a) finds any discrepancy, error or omission in the terms and conditions of the RFT; or
 - (b) wishes to make any enquiry, including seeking clarification, of the RFT,the Organisation must notify the **Contact Email Address** in writing, which notice may be sent by means of facsimile transmission or email, as soon as possible and not later than 14 days prior to the **Closing Time**.
- 2.3 AusAID will respond to any Organisation enquiries no later than 7 days prior to the **Closing Time**.
- 2.4 AusAID reserves the right to issue or publish answers to any Organisation's enquiries to all Organisations.

3. LATE CAPABILITY STATEMENTS

Conditions Applying to Capability Statements Lodged Electronically

- 3.1 A Capability Statement lodged electronically is a Late Capability Statement in accordance with the conditions specified in **Clause 5, Annex C of this Part**. Late Capability Statements that have been lodged electronically will be excluded from evaluation.
- 3.2 For Capability Statements submitted electronically, the time displayed on AusTender is deemed to be the correct time and will be the means by which AusAID will determine whether Capability Statements lodged electronically have been lodged by the **Closing Time**.
- 3.3 The judgement of AusAID as to the time a Capability Statement has been lodged electronically will be final.

Conditions Applying to Capability Statements Lodged in Hard Copy

- 3.4 A hard copy Capability Statement lodged after the **Closing Time** is a late Capability Statement.
- 3.5 AusAID will admit to evaluation a hard copy Capability Statement that was received late solely due to AusAID mishandling. AusAID mishandling does not include mishandling by a courier or mail service provider engaged by an Organisation to deliver their Capability Statement. It is the responsibility of organisations to ensure that their Capability Statement is dispatched in sufficient time for it to be received by AusAID by the **Closing Time**.
- 3.6 Late hard copy Capability Statements that are rejected by AusAID will be returned to organisations unopened, except in cases where a Capability Statement must be opened to identify the return address of the Organisation or to establish which tender process the Capability Statement was for.
- 3.7 If a hard copy Capability Statement is taken to be late, the Organisation may be asked to provide explanatory evidence in an appropriate form to the **Contact Person** specified in the Capability Statement Particulars.

4. NON-CONFORMING CAPABILITY STATEMENTS

- 4.1 Capability Statements will be regarded as non-conforming if they fail to conform with one or more of the requirements of the RFT.
- 4.2 AusAID reserves the right to seek clarification of non-conforming Capability Statements.
- 4.3 AusAID may, at its absolute discretion, assess a non-conforming Capability Statement.
- 4.4 AusAID will not enter into correspondence about a decision to assess or reject a non-conforming Capability Statement.

5. **AMENDMENT OF THE RFT**

- 5.1 AusAID may amend the RFT at any time by issuing an Addendum. All conditions of this RFT will apply to Addenda.

6. **ASSESSMENT OF CAPABILITY STATEMENTS**

- 6.1 Capability Statements will be assessed by a Technical Assessment Panel (the “**TAP**”). The TAP comprises AusAID representative(s) and independent specialists appointed at AusAID’s sole discretion. The TAP will assess Capability Statements based on the selection criteria and information provided in the annexes specified in **Part 1**.
- 6.2 TAP members are required to maintain the “commercial-in-confidence” nature of the proceedings of the TAP meeting. TAP members must not discuss matters relating to the technical assessment of any Capability Statement with any party.
- 6.3 AusAID reserves the right to take into account in the assessment of Capability Statements the past performance of the Organisation or any proposed personnel contained in the Capability Statement in accordance with the **Annex(es) of this Part**. TAP members may adjust technical scores as a consequence of past performance.

7. **CAPABILITY STATEMENT FORMAT**

- 7.1 The Capability Statement must:

- (a) indicate the Organisation’s nominated contact person and contact details on the cover page;
- (b) be in a type font of no less than 12 point on A4 paper;
- (c) have left and right page margins of no less than 2.5 cm, and top and bottom page margins of no less than 3 cm, excluding headers, footers and page numbers;
- (d) not have the AusAID logo or any other representation or mark which may indicate that the Organisation is in any way related to or connected with AusAID; and
- (e) be no longer than the **Page Limit** detailed in the Capability Statement Particulars (inclusive of tables, diagrams or graphs), but exclusive of required annexes.

8. **REFEREES**

- 8.1 Organisations must nominate at least two (2) referees who can provide an objective assessment of the quality of relevant and recent work performed by the organisation for the Annex - **Past Experience Forms**. Referees who can supply character references only are not sufficient.
- 8.2 Organisations must ensure that nominated referees do not have an actual or potential conflict of interest when acting as a referee. In particular, Organisations must ensure that referees:

- (a) are not an employee of, or the holder of a current executive office (or similar position) within the Organisation of, or do not have a business in association with, the Organisation or a subsidiary organisation of the Organisation; and
- (b) are not AusAID employees.

8.3 Organisations must further ensure that nominated referees:

- (a) are available to be contacted in the 3 week period after the Closing Time; and
- (b) are able to provide comments in English.

8.4 AusAID reserves the right to check with nominated referees and with other persons as AusAID chooses, the accuracy of the information and quality of work performed.

9. JOINT VENTURES AND CONSORTIUMS

9.1 AusAID intends to contract with a single legal entity.

9.2 In the case of a joint venture or consortium that does not constitute a single legal entity, AusAID will contract with the lead joint venture or consortium member that is required to be nominated by the Organisation.

9.3 Capability Statements by a joint venture or consortium must be submitted on the basis that details on the activities to be performed and responsibility assumed by each party of the joint venture or consortium must be clearly specified in the body of the text of the Capability Statement.

9.4 AusAID may require parent company guarantees from the parent companies of parties to a joint venture or consortium.

10. ASSOCIATES AND OTHER SUB-CONTRACTORS

10.1 Capability Statements involving two or more parties who have not formed a single legal entity will only be accepted if the Capability Statement is submitted on the basis that one party, the Organisation, is intended to act as the prime contractor and any other party becomes a sub-contractor known as an “Associate”.

10.2 Capability Statements involving Associates will be assessed on the basis of that arrangement. Capability Statements must include:

- (a) details on the activities to be performed and responsibilities assumed by each party where Associates are involved must be described in the body of the text of Capability Statement; and
- (b) assurance to AusAID from an authorised representative of the Associate of their corporate commitment to and involvement in the Project in the form of a single page Letter of Association in a separate annex to the Capability Statement.

Details of Associate responsibilities, if any, will be included in the Contract.

- 10.3 In addition to Associates, Organisations are required to include detailed information on other work to be sub-contracted (excluding Specified Personnel) and proposed sub-contractors, where these are reasonably known at the time of submitting the Capability Statement and have expressed their willingness to be involved in the Project. These details must also be included in a separate annex to the Capability Statement in the form described in **Clause 10.4 below**.
- 10.4 Letters in which Organisation's express their willingness to be involved with the Organisation in the Project as a sub-contractor must be limited to a single page per organisation and include details on the broad skills or areas in which the Organisation may add value.
11. Organisations note: AusAID contracts assign full responsibility for all sub-contracted Services to the contractor.
12. **OWNERSHIP OF CAPABILITY STATEMENTS AND RFT**
- 12.1 All Capability Statements become the property of AusAID on lodgement.
- 12.2 Such intellectual property rights as may exist in the information contained in each Capability Statement will remain the property of the Organisation.
- 12.3 The Organisation authorises AusAID to copy, adapt, amend, disclose, including to AusAID contractors and advisers, or do anything else necessary, in AusAID's sole discretion, to all materials including that which contains intellectual property rights of the Organisation or other parties contained in the Capability Statement.
- 12.4 Copyright in the RFT is reserved to AusAID.
13. **CONFLICT OF INTEREST**
- 13.1 Organisations must:
- (a) identify any actual or potential conflict of interest; and
 - (b) the procedures they intend to implement for dealing with, any actual or potential conflicts of interest,
- which may arise in connection with the submission of their Capability Statement or the conduct of the Services described in this RFT. Organisations should include details of any known circumstances that may give rise to either an actual conflict or potential of conflict of interest in relation to the Project.
- 13.2 If any actual or potential conflicts of interest arise for an Organisation before entering into a Contract for the Services or being invited to submit a proposal under step 2 of this RFT process, AusAID may:
- (a) enter into discussions to seek to resolve such conflict of interest;
 - (b) disregard the Capability Statement submitted by such an Organisation; or

- (c) take any other action that AusAID considers appropriate.

14. CONDUCT

- 14.1 Each Organisation warrants that it has not engaged in collusive or anti-competitive practices with any other Organisation in the preparation of its Capability Statement.
- 14.2 If an Organisation is found to have made false or misleading claims or statements, or receives improper assistance or improperly obtains confidential information, AusAID reserves the right to reject at any time, any Capability Statement lodged by or on behalf of that Organisation.

15. INELIGIBILITY TO SUBMIT A CAPABILITY STATEMENT

- 15.1 For the purpose of this **Clause 15**:

- (a) **“Proposed Subcontractor”** means a subcontractor that the Organisation intends to engage for the Project, whether or not nominated in its Capability Statement;
- (b) **“Related Entity”** means any person or company which is:
 - (i) a Proposed Subcontractor;
 - (ii) in the same group as the Organisation or a Proposed Subcontractor;
 - (iii) a ‘related body corporate’ of the Organisation or a Proposed Subcontractor, within the meaning of the *Corporations Act 2001*; or
 - (iv) associated with the Organisation or a Proposed Subcontractor in respect of its Capability Statement;
- (c) **“Relevant List”** means any list maintained by a donor of development funding which is similar to the World Bank List; and
- (d) **“World Bank List”** means the World Bank’s “Listing of Ineligible Firms” or the “Listing of Firms Letters of Reprimand” posted at www.worldbank.org.

- 15.2 An Organisation is ineligible to submit a Capability Statement if the Organisation or a Related Entity is listed on a World Bank List or on a Relevant List.
- 15.3 Each Organisation warrants, by submitting its Capability Statement, that the Organisation and its Related Entities are not listed on a World Bank List or on a Relevant List.
- 15.4 Organisations must state in their Capability Statements whether the Organisation or any Related Entity:
 - (a) is listed on a World Bank List or on a Relevant List;
 - (b) is subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;

- (c) is temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
 - (d) is temporarily suspended from tendering by a donor of development funding other than the World Bank; or
 - (e) is the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.
- 15.5 If an Organisation becomes aware of a circumstance referred to in **Clause 15.4** after it has submitted its Capability Statement to AusAID, the Organisation must immediately notify AusAID in writing.
- 15.6 AusAID will exclude any Capability Statement from evaluation if the Organisation is in breach of the warranty in **Clause 15.3**, or does not disclose any circumstance required under **Clause 15.4** or **15.5**.
- 15.7 AusAID reserves the right to exclude any Organisation from evaluation if the Organisation or a Related Entity:
- (a) becomes listed on a World Bank List or Relevant List, or is subject to proceedings or an informal process which could lead to such a listing;
 - (b) is or becomes temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process; or
 - (c) is or becomes temporarily suspended from tendering by a donor of development funding other than the World Bank.
- 15.8 Organisation should note that if they submit a Capability Statement in breach of this **Clause 15**, or are subsequently listed on a World Bank List or Relevant List, AusAID may terminate any contract subsequently entered into with that Organisation.
- 16. AusAID'S RIGHTS**
- 16.1 As a Commonwealth Government agency, all AusAID procurement is subject to the Commonwealth Procurement Guidelines. The core principle of Commonwealth procurement is to achieve value for money. AusAID is also bound to conduct its procurement in an ethical, accountable, transparent, efficient and effective manner.
- 16.2 AusAID reserves the right to:
- (a) seek Capability Statements from any organisation;
 - (b) accept or reject any Capability Statement;
 - (c) terminate, extend or vary its procurement process for the Services;
 - (d) request clarification in relation to a Capability Statement;

- (e) seek information or negotiate with any Organisation that has not submitted a Capability Statement;
- (f) terminate negotiations with the preferred Organisation and commence negotiations with any other Organisation;
- (g) evaluate Capability Statements as AusAID sees appropriate; and
- (h) negotiate with any one or more Organisations.

17. ORGANISATION'S ACKNOWLEDGEMENT

17.1 A Capability Statement is submitted on the following basis:

- (a) no legal obligation or agreement whatsoever is intended to be or is created between AusAID and any Organisation by virtue of the Capability Statement process (including but not limited to statements contained in this RFT) unless and until contract negotiations are completed and a formal written agreement acceptable to AusAID is entered into and executed by an authorised officer of AusAID and by the successful Organisation, if any;
- (b) the Organisation acknowledges and agrees that AusAID, its employees, agents and advisers are not, and will not be responsible, or liable for the accuracy or completeness of any information contained in this RFT; and
- (c) the Organisation is responsible for all costs of and incidental to the preparation and delivery of the Capability Statement, including obtaining this RFT, or any subsequent stage of the procurement process, including answering any queries and providing any further information sought by AusAID.

18. DEBRIEFING OF ORGANISATIONS

- 18.1 If requested, AusAID will provide non-shortlisted Organisations with a written debriefing on the results of the technical assessment of their Capability Statement, including reasons why the organisation was not shortlisted.
- 18.2 AusAID will not enter into discussion or communications on the content of the Capability Statement debrief once it has been completed.

19. AUSTRALIAN GOVERNMENT AND AUSAID LAWS AND POLICIES

19.1 Freedom of Information

- (a) The *Freedom of Information Act 1982* gives members of the public rights of access to official documents of the Australian Government and its agencies. The *Freedom of Information Act 1982* extends, as far as possible, the right of the Australian community to access information (generally documents) in the possession of the Australian Government, limited only by considerations of the protection of essential public interest and of the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities.

- (b) Organisations should obtain, and will be deemed to have obtained, their own advice on the impact of the *Freedom of Information Act 1982* on their participation in this RFT process and any subsequent contract.

19.2 Privacy

- (a) The *Privacy Act 1988* establishes a national scheme providing, through codes of practice adopted by private sector organisations and the National Privacy Principles, for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by private sector organisations.
- (b) The Draft Contract provides that the Contractor will comply with the *Privacy Act 1988*, including the Information Privacy Principles and the National Privacy Principles whether or not the Contractor is an organisation subject to the *Privacy Act 1988*.
- (c) The Contractor acknowledges that the Privacy Act 1988 reflects the principles of the International Covenant on Civil and Political Rights and OECD Guidelines, in particular, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data.
- (d) Organisations should obtain, and will be deemed to have obtained, their own advice on the impact of the *Privacy Act 1988* on their participation in this RFT process and any subsequent contract.

19.3 Access by Australian National Audit Office

- (a) Attention of Organisations is drawn to the *Auditor-General Act 1997* which provides the Auditor-General, or an authorised person, with a right to have, at all reasonable times, access to information, documents and records.
- (b) In addition to the Auditor-General's powers under the *Auditor-General Act 1997*, the Draft Contract provides that the Contractor will provide the Auditor-General, or an authorised person, access to information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.
- (c) Organisations should obtain, and will be deemed to have obtained, their own advice on the impact of the *Auditor-General Act 1997* on their participation in the RFT process and any subsequent contract.

19.4 Access by Ombudsman

- (a) Attention of Organisations is drawn to the *Ombudsman Act 1976* which gives Australians access to a government officer, known as an ombudsman, who investigates complaints from the public about government agencies and their operations and decisions, and reports on ways in which they may be resolved.
- (b) In addition to the ombudsman's powers under the *Ombudsman Act 1976*, the Draft Contract provides that the Contractor will provide the ombudsman, access to

information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.

- (c) Organisations should obtain, and will be deemed to have obtained, their own advice on the impact of the *Ombudsman Act 1976* on their participation in the RFT process and any subsequent contract.

19.5 Equal Employment Opportunity for Women in the Workplace Act 1999.

- (a) Australian Government policy prevents AusAID from entering into contracts with suppliers who are currently named as non compliant under the *Equal Employment Opportunity for Women in the Workplace Act 1999* (EEO Act).
- (b) AusAID will exclude from consideration any Capability Statement from an Organisation who is named or whose subcontractor is named as not complying with the EEO Act.

19.6 United Nations Act, Criminal Code Act 1995 and World Bank List

- (a) AusAID will exclude from consideration any Capability Statement from an Organisation who is listed:
 - (i) by the Minister for Foreign Affairs under the *Charter of the United Nations Act 1945* and/or listed in regulations made under Division 102 of the *Criminal Code Act 1995* (Cth). Further information about listed persons and entities is available from the Department of Foreign Affairs and Trade website at www.dfat.gov.au/icat/UNSC_financial_sanctions.html and from <http://www.nationalsecurity.gov.au/>
 - (ii) by the World Bank on its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at www.worldbank.org (the "World Bank List"); or
 - (iii) by any other donor of development funding on a list similar to the World Bank List.

19.7 Fair Work Principles

- (a) Organisations should note that the Australian Government Fair Work Principles apply to this procurement. More information on the Fair Work Principles and their associated User Guide can be found at www.deewr.gov.au/fairworkprinciples.
- (b) In particular Organisations should note that in accordance with the Fair Work Principles AusAID will not enter into a contract with an Organisation who:
 - (i) fails, when required by the Commonwealth, to confirm it understands and complies with all relevant workplace relations law, occupational health and safety law, or workers' compensation law;

- (ii) is subject to an order from any Court or Tribunal decisions relating to a breach of workplace relations law, occupational health and safety law, or workers' compensation law with which the Organisation has not fully complied or is not fully complying;
 - (iii) has a *Fair Work Act 2009* agreement that was made on or after 1 January 2010 that does not include genuine dispute resolution procedures;
 - (iv) fails to provide information when requested by AusAID relevant to their compliance with the Fair Work Principles;
- (c) For the purposes of **Clause 18.7(b)** above:
- (i) a genuine dispute resolution procedure is one which provides each of the following processes to resolve workplace disputes:
 - (A) the ability for employees to appoint a representative in relation to the dispute;
 - (B) in the first instance procedures to resolve the dispute at the workplace level;
 - (C) if a dispute is not resolved at the workplace level, the capacity for a party to the dispute to refer the matter to an independent third party for mediation or conciliation; and
 - (D) if the dispute is still not resolved, the capacity for an independent third party to settle the dispute via a decision binding on the parties.
 - (ii) a decision or order with which the Organisation has not fully complied or is not fully complying includes any relevant penalty or order of a Court or Tribunal, but it does not extend to infringement notices issued by workplace inspectors or a provisional improvement notice issued by an occupational health and safety inspector, or those instances where a penalty or a requirement has been imposed but the period for payment/compliance has not expired.

19.8 Other Australian Government and AusAID Policies

- (a) Organisations should familiarise themselves with AusAID policies including:
 - (i) the policy *Gender Equality in Australia's Aid Program – Why and How* (March 2007). This document is available on AusAID's website at <http://www.ausaid.gov.au/publications/default.cfm>;
 - (ii) The strategy 'Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014', and in particular the strategy's six guiding principles, located at http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf;

- (iii) AusAID's policy on the environment as set out in the *Environmental Management Guide for Australia's Aid Program*. This document is available on AusAID's website at <http://www.ausaid.gov.au/keyaid/envt.cfm>;
- (iv) AusAID's *Child protection policy*, in particular the child protection compliance standards at Attachment 1 to the policy. This document is available on AusAID's website at <http://www.ausaid.gov.au/publications/default.cfm>;
- (v) *Family Planning and the Aid Program: Guiding Principles* (August 2009). This document is available on AusAID's website at: <http://www.ausaid.gov.au/keyaid/health.cfm>; and
- (vi) any other policies published from time to time on <http://www.ausaid.gov.au> or as otherwise notified to Organisations.

20. FURTHER REQUIREMENTS

- 20.1 Organisations must be aware that current employees of AusAID cannot be included in Expressions of Interest for AusAID activities or assist in their development. Former AusAID employees may be included in Expressions of Interest if doing so does not represent a conflict of interest.
- 20.2 Organisations should note that the *Commonwealth Procurement Guidelines* require that Commonwealth agencies must not enter into agreements with suppliers who have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and who have not paid the claim.
- 20.3 Organisations must keep any discussions or contact with AusAID in connection with the Expression of Interest, the Invitation and any contract negotiations confidential. Any unauthorised approach by an Organisation to an AusAID officer, or Partner Government Official or discussion of matters pertaining to the procurement process will be considered a breach of confidentiality.

21. APPLICABLE LAW

- 21.1 The laws of the Australian Capital Territory apply to the RFT and the RFT process.

ANNEX A - AUSAID USE OF PERFORMANCE INFORMATION

1. AusAID reserves the right to take into account in the assessment of this Capability Statement the past performance, in previous AusAID and non-AusAID activities, or activities of:
 - (a) any Organisation; and
 - (b) any member of the proposed personnel,in its capacity as:
 - (c) contractor, consultant or sub-contractor;
 - (d) an associate or employee of a contractor, consultant or sub-contractor; or
 - (e) a joint venture partner.
2. AusAID may:
 - (a) include in the assessment any contractor performance information contained in any internal AusAID contractor performance reporting systems in relation to performance of the Organisation or proposed management, administrative and Project personnel on previous AusAID activities, providing the contractor has seen the report and has had reasonable opportunity to comment; and
 - (b) take into account relevant performance information provided by external referees in relation to a Organisation or proposed personnel member obtained by AusAID as a result of inquiries made within the previous 12 months.
3. AusAID reserves the right to use any relevant information obtained in relation to a Organisation or proposed personnel member obtained either during the Capability Statement period or within the previous 12 month period by providing it to the TAP or to any other relevant person for the purposes of Capability Statement assessment, and such information may be taken into account in the course of assessment of the Capability Statement by the TAP and AusAID. Where information has been received in accordance with paragraph 2 (a) above, these may also be introduced into the TAP process.
4. AusAID may, at any time, make independent inquiries of:
 - (a) any person or entity which it reasonably believes to have actual knowledge of the performance of the Organisation or proposed personnel member/s on a previous project or activity, whether or not that person or entity is nominated in the Capability Statement as a referee for the Organisation or proposed personnel member; and
 - (b) any Commonwealth Government department, agency or other government entity in Australia whether Commonwealth or State, or any other country, including law enforcement agencies in relation to a person who is proposed for inclusion in a Capability Statement or a Organisation.

5. AusAID may request a Organisation to provide additional or clarifying information in relation to information obtained during the assessment process following the Closing Time for the purpose of assessment of the Capability Statement.
6. Information obtained as a result of inquiries made by AusAID in relation to performance on previous activities will be sought on a confidential basis and AusAID shall not be obliged to disclose the content or source of prior performance information about a Organisation or individual to any person.
7. AusAID shall not be liable upon any claim, demand, proceeding suit or action by any Organisation or any proposed personnel member in relation to any matter, thing or issue arising out of or in any way in relation to the collection of information from any source or the use of any information collected pursuant to this Annex in the Capability Statement assessment process.

ANNEX B - CAPABILITY STATEMENT DECLARATION

I, **[name, address and corporation of person making the declaration]**, do solemnly and sincerely declare that:

1. DEFINITIONS

1.1 In this declaration:

“**AusAID**” means the Australian Agency for International Development and represents the Commonwealth of Australia;

“**Services**” means Services to be performed by the Contractor for the Papua New Guinea Sub National Strategy; and

“**Organisation**” means *[list name, address and ABN and ACN if appropriate. Note, Organisations must provide their ABN if they have one. Moreover, if you are a Company and your ACN is not included in your ABN, you must also provide your ACN)]*; and

2. BASIS OF DECLARATION

2.1 I hold the position of **[managing director or other title]** of the Organisation and am duly authorised by the Organisation to make this declaration.

2.2 I make this declaration on behalf of the Organisation and on behalf of myself.

2.3 I declare as follows:

3. THE OFFER

3.1 The Capability Statement is accurate in every respect. In particular, I warrant that the information and certification included in each CV submitted (where CVs have been submitted for the Capability Statement) is accurate, that the proposed team members have been approached and confirmed their availability and that AusAID has the authority to make the inquiries referred according to the CV certification.

3.2 I warrant that the Organisation has used its best endeavours to ensure that all proposed team members are of good fame and character.

3.3 I acknowledge that if the Organisation is found to have made false or misleading material claims or statements in the Capability Statement or in this Declaration, or to have used confidential information, or received improper assistance, AusAID will reject at any time any Capability Statement lodged by or on behalf of the Organisation.

3.4 I acknowledge and agree to the matters specified in **Clause 15** (AusAID’s Rights) and **Clause 16** (Organisation’s Acknowledgement) of **Part 2**.

3.5 I acknowledge that each party constituting the Organisation is bound jointly and severally by this Capability Statement.

[Note to Organisations: The following Clauses 3.7 and 3.8 will be used by AusAID to confirm the Organisation's compliance with the relevant requirements of the Fair Work Principles]

3.6 The Organisation has read and understood the Fair Work Principles User Guide and understands that the Fair Work Principles will apply to the procurement for the Project.

3.7 Compliance with Fair Work Principles

(i) The Organisation declares the following:

(A) The Organisation has had _____ ***[Nil or specify number]*** adverse Court or Tribunal decision for a breach of workplace relations law, occupational health and safety law, or workers' compensation law in the past two years preceding the date of this Request for Tender.
[If response is nil adverse decisions go to 3.8(i)(C) below]

(B) ***[Note to Organisations: Strike through whichever option does not apply]***

The Organisation has fully complied or is fully complying with all penalties or orders arising from the Court or Tribunal decisions declared above.

OR

The Organisation has not fully complied with or is currently not fully complying with _____ ***[Number]*** of the penalties or orders arising from the Court or Tribunal decisions declared above and has provided as part of its Capability Statement information about each of these penalties or orders in the form required in Appendix A to the Fair Work Principles User Guide.

Organisations must provide additional information about each decision declared above in Clause 3.7(i)(B) as specified in Appendix A to the Fair Work Principles User Guide. Organisations should note that they will not be eligible for further consideration for this procurement if they have not fully complied with, or are not fully complying with, any Court or Tribunal decision, or have not appealed the decision prior to the end of the appeal period.

(C) The Organisation understands its obligations under all applicable workplace relations, occupational health and safety, and workers' compensation laws. The Organisation undertakes that it complies with all of these obligations.

(D) The Organisation confirms that (except where it is an overseas based supplier to which these requirements do not apply in accordance with the Fair Work Principles User Guide) it:

(I) has consultation arrangements which encourage cooperation and engagement of employees and management; and

- (II) understands and respects their employees' rights in relation to freedom of association and the right to representation at work, including that the Organisation allows its employees to be able to make a free and informed choice about whether to join a union and be represented at work.
- (E) Where the Organisation has a *Fair Work Act 2009* enterprise agreement that was approved on or after 1 January 2010 that enterprise agreement includes a genuine dispute resolution procedure that includes the following:
 - (I) the ability for employees to appoint a representative in relation to the dispute;
 - (II) in the first instance procedures to resolve the dispute at the workplace level;
 - (III) if a dispute is not resolved at the workplace level, the capacity for a party to the dispute to refer the matter to an independent third party for mediation or conciliation; and
 - (IV) if the dispute is still not resolved, the capacity for an independent third party to settle the dispute via a decision binding on the parties.
- (ii) If at any time prior to entry into a contract with the preferred Organisation, any information provided in this declaration changes, the Organisation agrees to advise AusAID of that change within 7 calendar days.
- (iii) The Organisation agrees AusAID may provide any information collected, or provided to it by the Organisation during the course of this RFT process (including breaches of the Fair Work Principles) to other Commonwealth agencies or regulatory bodies including the Department of Education, Employment and Workplace Relations, Australian National Audit Office, Fair Work Ombudsman and Fair Work Australia.
- (iv) The Organisation agrees that failure to comply with **Clause 3.7** of this Capability Statement Declaration will result in its Capability Statement being excluded from further consideration.

4. ADDENDA TO THE REQUEST FOR TENDER

I acknowledge receipt of the following Addenda, the terms of which are incorporated in the Capability Statement:

Number _____ Dated _____	Number _____ Dated _____
Number _____ Dated _____	Number _____ Dated _____

5. ADDRESS OF ORGANISATION

Address or Registered Office of Organisation

Address for service of notices (NOT PO. BOX)

Telephone Number: Fax Number:

SIGNED for and on behalf of *insert*)
organisation/ company name ABN (and)
ACN if applicable) by:)
)

insert name and title

Signature

ANNEX C – ORGANISATION’S SUBMISSION CHECKLIST

This checklist is to be included with all proposals. Organisations are to confirm that their proposal complies with the requirements of the Request for Tender (RFT) by initialling the box where appropriate.

This checklist is provided to Organisations in order to assist in the submission of a proposal which conforms with the requirements of the RFT. However, it is not an exhaustive list of these requirements. It is incumbent on Organisations to ensure that proposals comply with the terms of the RFT. It should be considered that all requirements detailed in the RFT are mandatory and that failure to comply with any of the requirements detailed in the RFT may lead to an Organisation’s proposal being deemed non-conforming.

	Checked
Has the Capability Statement Declaration been completed and signed?	
Is the Capability Statement within the specified page limit?	
Does the Capability Statement address each of the selection criteria individually?	
Does the Capability Statement indicate the Organisation’s nominated contact person and contact details on the cover page?	
Are the required annexes included and within the specified page limit(s)?	
If the Past Experience Annex is used, have at least two (2) referees been nominated and has it been confirmed that they are: a) not an employee of, or the holder of a current executive office (or similar position) within the organisation of, or do not have a business in association with the Organisation or a subsidiary of the Organisation? b) not included in the Capability Statement as proposed team members? c) not AusAID employees?	

	Checked
Are both the Capability Statement and annexes: a) in a type font of no less than 12 point on A4 paper? b) formatted with left and right page margins no less than 2.5cm and top and bottom page margins no less than 3cm, excluding headers, footers and page numbers? c) absent of AusAID's logo or any representation or mark which indicates that the Organisation is in any way related to or connected with AusAID?	
For electronic lodgement, has one (1) electronic copy containing all parts and annexes been provided?	
For hard copy lodgement, has one (1) printed original, four (4) copies and a CD containing all parts and annexes been provided?	

ANNEX D – CONDITIONS FOR USE OF AUSTENDER, THE AUSTRALIAN GOVERNMENT ONLINE TENDER SYSTEM

1. AusTender, the Australian Government Tender System

- 1.1 AusTender is the Australian Government's procurement information system. Access to and use of AusTender is subject to terms and conditions. In participating in this tender process, Organisations must comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at <https://www.tenders.gov.au>.
- 1.2 All queries and requests for technical or operational support must be directed to:
AusTender Help Desk
Telephone: 1300 651 698
International: +61 2 6215 1558
Email: tenders@finance.gov.au
The AusTender Help Desk is available between 9am and 5pm ACT Local Time, Monday to Friday (excluding ACT and national public holidays).

2. Preparing to Lodge a Tender Electronically

Virus Checking

- 2.1 In submitting their Capability Statement electronically, Organisations warrant that they have taken reasonable steps to ensure that tender response files are free of viruses, worms or other disabling features which may affect AusTender and/or AusAID's computing environment. Tenders found to contain viruses, worms or other disabling features will be excluded from the evaluation process.

Capability Statement File Formats, Naming Conventions and Sizes

- 2.2 Organisations must lodge their Capability Statements in accordance with the requirements set out in this **Clause 2** for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in the Capability Statements not uploading successfully and/or may eliminate the bid from consideration.
- 2.3 AusAID will accept tenders lodged in the **File Format for Electronic Tenders** specified in the Capability Statement Particulars (**Clause 1 of Part 1** of this RFT).
- 2.4 The Capability Statement file name/s:
- (a) should incorporate the Organisation's company name;
 - (b) should reflect the various parts of the bid they represent, where the tender comprises multiple files;
 - (c) must not contain \ / : * ? " < > | characters. Check your files and re-name them if necessary; and

- (d) must not exceed 100 characters including the file extension.

2.5 Capability Statement files:

- (a) must not exceed a combined file size of 5 megabytes per upload;
- (b) should be uploaded from a high level directory on a tenderer's desktop, so as not to impede the upload process; and
- (c) should be zipped (compressed) together for transmission to AusTender.

2.6 AusTender will accept up to a maximum of five files in any one upload of a Capability Statement. Each upload should not exceed the combined file size limit of 5 megabytes. If an upload would otherwise exceed 5 megabytes, the Organisation should either:

- (a) transmit the Capability Statement files as a compressed (zip) file not exceeding 5 megabytes; and/or
- (b) lodge the Capability Statement in multiple uploads ensuring that each upload does not exceed 5 megabytes and clearly identify each upload as part of the Capability Statement.

2.7 If a Capability Statement consists of multiple uploads, due to the number of files or file size, Organisation should ensure that transmission of all files is completed before the **Closing Time**.

2.8 Capability Statements must be completely self-contained. No hyperlinked or other material may be incorporated by reference.

3. Scanned or Imaged Material, including Statutory Declarations

3.1 Scanned images of signed and/or initialled pages within the Capability Statement, including Statutory Declarations and Deeds of Confidentiality, where they are required, are permitted so long as the total file size does not exceed the 5 megabyte limit. The use of scanned or imaged material, where it expands the tender file size beyond the 5 megabyte limit per upload, is prohibited.

4. Electronic Lodgement Process

4.1 Before submitting an electronic Capability Statement, Organisations must:

- (a) ensure their technology platform meets the minimum requirements identified on AusTender;
- (b) refer to AusTender's Help guidance, if required, on uploading tenders;
- (c) take all steps to ensure that the Capability Statement is free from anything that might reasonably affect useability or the security or operations of AusTender and/or AusAID's computing environment;

- (d) ensure that the Capability Statement does not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by AusAID; and
 - (e) ensure that the Capability Statement complies with all file type, format, naming conventions, size limitations or other requirements specified in **Clause 2** or otherwise advised by AusAID or required by AusTender.
- 4.2 Organisations must allow sufficient time for Capability Statement lodgement, including time that may be required for any problem analysis and resolution prior to the **Closing Time**.
- 4.3 Organisations should be aware that holding the “Lodge a Response” page in the web browser will not hold the electronic tender box open beyond the **Closing Time**. An error message will be issued if the lodgement process is attempted after the **Closing Time**.
- 4.4 Capability Statements lodged through AusTender will be deemed to be authorised by the Organisation.
- 4.5 If Organisations have any problem in accessing the AusTender website or uploading a Capability Statement they must contact AusAID via the nominated **Contact Person (Clause 1 of Part 1)** or the AusTender Help Desk (**Clause 1.2** above) prior to **Closing Time**. Failure to do so will exclude a Capability Statement from consideration.
- 5. Late Capability Statements, Incomplete Capability Statements and Corrupted Files**
- 5.1 Any attempt to lodge a Capability Statement after the **Closing Time** will not be permitted by AusTender. Such a Capability Statement will be deemed to be a Late Capability Statement.
- 5.2 Where electronic submission of a tender has commenced prior to the **Closing Time** but concluded after the **Closing Time**, and upload of the tender file/s has completed successfully, as confirmed by AusTender system logs, the Capability Statement will not be deemed to be a Late Capability Statement. Such Capability Statement will be identified by AusTender to AusAID as having commenced transmission prior to, but completed lodgement after, **Closing Time**.
- 5.3 Where a Capability Statement lodgement consists of multiple uploads, due to the number and/or size of the files, Organisations must ensure that transmission of all files is completed and receipted before the **Closing Time** and **Clause 5.2** will only apply to the final upload.
- 5.4 Late Capability Statement, incomplete Capability Statement, including those with electronic files that cannot be read or decrypted, Capability Statement which AusAID believes to potentially contain any virus, malicious code or anything else that might compromise the integrity or security of AusTender and/or AusAID’s computing environment, will be excluded from evaluation.

6. Proof of Lodgement

- 6.1 When a Capability Statement lodgement has successfully completed, an official receipt is provided on screen. The on-screen receipt will record the time and date the Capability Statement was received by AusTender and will be conclusive evidence of successful lodgement of a Capability Statement. It is essential that Organisations save and print this receipt as proof of lodgement. A separate email confirming receipt of the Capability Statement will also be automatically dispatched to the email address of the registered user whose details were recorded at login.
- 6.2 Failure to receive a receipt means that lodgement has not completed successfully. Where no receipt has been issued by AusTender, the attempted lodgement will be deemed to have been unsuccessful. Organisations should refer to **Clauses 4.2 and 4.5**.

7. AusTender Security

- 7.1 Organisations acknowledge that although the Commonwealth has implemented the security measures described on AusTender, the Commonwealth does not warrant that unauthorised access to information and data transmitted via the Internet will not occur.
- 7.2 Organisations acknowledge that:
- (a) lodgement of their Capability Statement on time and in accordance with these conditions is entirely their responsibility; and
 - (b) AusAID will not be liable for any loss, damage, costs or expenses incurred by Organisations or any other person if, for any reason, a Capability Statement or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.