

Quotations – Terms and Conditions

DEFINITIONS

BSC	Banana Shire Council
RFQ	Request for Quote
PO	Purchase Order
Supplier	A person or business that provides a product or service to another entity, acting as an intermediary between manufactures and retailers

1. FORMATION OF CONTRACT

Where the Supplier has provided Banana Shire Council (BSC) with a written quotation and BSC places a purchase order with the Supplier during the validity period of the quotation, a binding contract is deemed to be formed between both parties.

The following documents form the entire agreement between the parties ('Contract'):

- a) the Purchase Order (including any special conditions and Terms and Conditions);
- b) these Terms and Conditions;
- c) the Specification; and
- d) any other document expressly listed in the RFQ.

2. COMMUNICATIONS

A prospective Supplier must direct all communications and enquiries concerning this RFQ to quotations@banana.qld.gov.au.

Unauthorised communication by a prospective Supplier with any other employee or agent of the BSC may lead to a Quotation being rejected.

3. ADDENDA

The BSC may change this RFQ by issuing Addenda in writing. Any Addenda becomes part of this RFQ. Addenda issued by the BSC is the only recognised explanation of, or amendments to, this RFQ.

4. AGREEMENT TO BE BOUND

By lodging a Quotation a prospective Supplier agrees to be bound by the Quotations - Terms and Conditions.

5. USE OF RFQ AND INFORMATION RESTRICTED

This RFQ, and any information provided by the BSC to a prospective Supplier as part of the RFQ process, remain the property of the BSC, and may only be used by a prospective Supplier to prepare a Quotation in response to this RFQ.

6. STATUS OF RFQ REPRESENTATION

No representation made by or on behalf of the BSC during the RFQ process binds the BSC unless the representation is subsequently included as part of a formal instrument of agreement.

7. CONFIDENTIALITY

A prospective Supplier who submits a Quotation must keep the information in its Quotation confidential. Nothing in this clause prevents a prospective Supplier from disclosing information in its Quotation:

- a) that is available to the public generally otherwise than as a result of a breach of this clause by the prospective Supplier;
 - b) if the disclosure of the Quotation is required by law;
 - c) if the disclosure is necessary to obtain an approval or license under the law;
- or if the disclosure is to the prospective Supplier's professional advisers or lenders

8. CONFIDENTIALITY IN GOVERNMENT CONTRACTS

BSC collects your personal information in accordance with the *Local Government Act 2009* (the Act) and the *Local Government Regulation 2012* (the Regulation) for the purpose of evaluating your submission and administering any subsequent contract. Generally, we will not disclose your personal information outside of Council unless we are required by law or you have given your consent.

However, to perform the above functions, we may need to disclose your personal information to your referees and ATO. By completing and signing this form and returning it to Council, we will consider that you have given us your consent to manage your personal information in the manner described in Council's [Privacy Statement, Privacy Procedure](#) and this collection notice.

9. PRIVACY AND DATA PROTECTION OBLIGATIONS OF CONTRACTED SERVICE PROVIDERS

The Supplier acknowledges and agrees that in performing services under this Contract, it is bound by the *Information Privacy Act 2009* (Qld) (IP Act) in relation to any personal information it collects, uses or has access to, in connection with this Agreement.

The Supplier must:

- a) Comply with the Queensland Privacy Principles (QPPs) as if it were Council.
- b) Not use personal information other than for the purposes directly related to carrying out the purpose of this agreement.
- c) Except as permitted under this agreement, not disclose personal information without prior written consent of Council.
- d) Ensure that access to Personal Information is restricted to those of your employees, volunteer workers and officers who require access to perform their duties.
- e) Ensure that your employees, volunteer workers and officers do not access, use or disclose personal information other than in the performance of their duties.
- f) If the Supplier does not have a compliant Privacy Policy and Data Breach Response Policy, adopt and comply with the Council's Privacy Policy and Data Breach Response Policy, available on Council's website.
- g) Notify the Council immediately upon becoming aware of any actual or suspected data breach involving personal information collected, held, or processed in connection with this Agreement.
- h) Comply with section 33 of the IP Act regarding the disclosure of personal information outside Australia.
- i) Cooperate fully with the Council in responding to privacy complaints, investigations, or audits conducted by the Office of the Information Commissioner or any other relevant authority.
- j) The Supplier must not engage any subcontractor to perform services involving personal information without the prior written approval of Council. If approved, the Contractor must ensure that any subcontractor is contractually bound to comply with privacy obligations equivalent to those in this clause and remains liable for any breach by the subcontractor.

- k) Upon termination or expiry of this Agreement, the Supplier must continue to comply with the privacy principles in relation to any personal information it retains. At Council's direction, the Supplier must return or securely destroy all personal information in its possession or control and provide written confirmation of such return or destruction.
- l) The Contractor must provide Council with access to any documents in its possession that are considered to be under Council's control for the purposes of the *Right to Information Act 2009* (Qld) or the IP Act.

10. CONFIDENTIALITY IN RELATION TO CONTRACT MATERIAL AND COUNCIL MATERIAL

The BSC reserves the right at its absolute discretion:

- a) by written notice to prospective Suppliers (who have been issued an RFQ) to do any of the following:
 - i. to discontinue or suspend the RFQ process;
 - ii. to extend the closing date and time as stated in the RFQ, and to amend this RFQ;
- b) to negotiate with any prospective Supplier submitting a Quotation;
- c) to determine the number of organisations with whom it will contract.

The BSC is not bound to accept the lowest, or any, Quotation submitted

11. CONTENT AND FORMAT OF QUOTATIONS

Quotations must include all the information listed in the RFQ.

A Quotation must be prepared using the approved Quotation Form.

12. ALTERNATIVE OFFERS

Prospective Suppliers may submit an alternative proposal if it is clearly identified as an 'Alternative Offer' wherever it fails to comply with this RFQ.

A prospective Supplier who submits a Quotation that meets the requirements in this RFQ in an alternative and practical manner, considering the totality of those requirements, must include any supplementary material, together with associated prices, which demonstrates, in detail, that the alternative offer will fully achieve all the requirements.

The BSC reserves the right either to consider Alternative Offers on their merits or to not consider them further.

13. MONETARY AMOUNTS

All monetary amounts must be expressed in Australian dollars (inclusive of GST). The Conditions of Contract allow for the payment of GST.

14. PREPARATION OF QUOTATION

The BSC will neither be responsible for, nor pay for any cost, expense or loss, which may be incurred by any person in connection with the preparation or presentation of this Quotation.

15. EXCLUSION OF LIABILITY

The BSC is not liable for any error or omission in this RFQ.

16. VALIDITY

A Quotation constitutes an irrevocable, unalterable offer by the prospective Supplier to the Council. A Quotation must remain valid and open to be accepted for ninety (90) days (three calendar months) from the closing time and date specified. The period of sixty (60) business days may be extended by written agreement between the prospective Supplier and the BSC.

17. LODGEMENT OF QUOTATIONS

A Quotation must be lodged by the closing time and date specified in the RFQ unless extended in writing. A Quotation must be lodged by email to quotations@banana.qld.gov.au.

18. DECLARATION (NOTIFICATION) OF ACTUAL, POTENTIAL OR PERCEIVED CONFLICTS OF INTEREST

A declaration is required of any known actual or perceived Conflicts of Interest so that Council can consider if/how this potential, perceived or actual conflict of interest can be managed. This includes payments, gifts or business arrangements with a partner, spouse, immediate relative or friend of a Councillor or Council employee.

19. LATE QUOTATIONS

Late Quotations will not be considered unless the BSC is of the view (and its decision will be absolute and final) that:

- (a) circumstances beyond the prospective Supplier's control were the cause of the lateness; and
- (b) the consideration of the late Quotation will not compromise the integrity of the procurement process or provide an unfair advantage to the prospective Supplier lodging the late Quotation.

20. HOW A CONTRACT FOR THE SUPPLY OF THE SERVICES IS FORMED

A contract for the supply of the Goods/Services may be formed in either of the following ways:

Alternative 1: A contract for the supply of the Services will be formed when the BSC accepts the successful Supplier's Quotation by signing and dating the acceptance statement that is part of the Quotation Form. As soon as practicable following that acceptance, the BSC must forward to the successful Supplier a letter stating that the Supplier's Quotation has been accepted. The letter must include a copy of the Quotation Form showing the acceptance statement as signed and dated by the BSC.

Alternative 2: A contract for the supply of the Services will be formed when the BSC and the successful Supplier enter into a formal instrument of agreement.

The BSC will determine which alternative is to apply after it has completed the evaluation of Quotations.

21. DEBRIEFING

Unsuccessful Suppliers are encouraged to contact Council via email quotations@banana.qld.gov.au to request a debriefing to discuss the reasons for their non-selection. If requested to do so, the BSC will provide a debriefing for unsuccessful Suppliers after a contract has been formed for the supply of the Goods/Services, or the BSC has decided not to award a contract for the supply of the goods/services.

22. COMPLAINTS PROCESS

Suppliers may lodge a complaint in writing if they believe the RFQ process has not complied with the BSC procurement policies. Further information on the formal complaints process is available from the website www.banana.qld.gov.au or by calling 07 4992 9500.

NEED HELP?

► Contact the BSC Procurement Team:

Email: quotations@banana.qld.gov.au.

Phone: 07 4992 9500