

Schedule 2.2(a)ii

via email: Schedule 2.2(a)ii

Dear Schedule 2.2(a)ii

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by Major Projects Canberra (MPC) from Chief Ministers Treasury and Economic Development Department (CMTEDD) on 2 February 2024, in which you sought access to:

"Copies of the following documents:

- 1. Any communication between the Ministers office and CMTEDD regarding work order number PICM0002455 and the procurement process that is being audited through this contract. Including any briefing for the Minister, any communication between CMTEDD and the Ministers office, including any communication or briefing with the strategic communications team regarding this contract or the procurement process that is being audited through this contract.*
- 2. A copy of the draft probity audit findings report including any comments provided and correspondence within CMTEDD and the Ministers office regarding the draft report.*
- 3. A copy of the final probity audit findings report including any comments provided and correspondence within CMTEDD and the Ministers office regarding the final report."*

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access application made under Part 5 of the Act.

Decision on access

Searches were completed for relevant documents and ten (10) documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

My decision in relation to the documents relevant to your request is summarised as follows:

- Full release of three (3) documents;
- Partial access to five (4) documents;
- Withhold access to three (3) documents.

My decision is detailed further in the following statement of reasons.

Statement of Reasons

In making my decision on disclosing government information, I must identify all relevant factors in schedules 1 and 2 of the FOI Act and determine, on balance, where the public interest lies. In reaching my access decision, I have taken the following into account:

Factors favouring disclosure in the public interest (Schedule 2, Section 2.1)

- Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability; and
- Section 2.1(a)(iv) ensure effective oversight of expenditure of public funds;

The information you have requested concerns the management of the ACT's aquatic centres, a subject of concern for many residents. I consider that disclosing the contents of the information sought could reasonably contribute to discussion of public affairs.

The management of these aquatic centres also involves the expenditure of government funds. I consider it in the public interest to provide information to describe how concerns in relation to the probity of ACT Government procurements are addressed.

I am satisfied that these are relevant considerations favouring disclosure in this case, and in the interests of enhancing open discussion, I afford them significant weight.

Factors favouring non-disclosure in the public interest (Schedule 2, Section 2.2)

- Section 2.2(a) (ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004

I consider that the protection of an individual's right to privacy, especially in the course of dealings with the ACT Government is a significant factor as the parties involved have provided their personal contact information for the purposes of working with the ACT Government. Additionally, some of the documents contain individuals' signatures. I have considered this information and in my opinion the protection of individuals' personal details outweighs the benefit which may be derived from releasing them.

- Section 2.2(a)(xi) prejudice trade secrets, business affairs or research of an agency or person;

I have also considered the impact of disclosing information which relates to business affairs. In the case of *Re Mangan and The Treasury* [2005] AATA 898 the term 'business affairs' was interpreted as meaning 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person.

I am satisfied that release of some of the information identified as relevant to your request would have significant impact on the business affairs of entities involved in procurement activities with the ACT Government. It is therefore considered as part of 'the totality of the money-making affairs of an organisation or undertaking' as defined in the case of *Re Mangan and The Treasury* [2005] AATA 898. Accordingly, I have decided this information is not in the public interest to release.

Additionally the draft and final Audit reports that you have requested contain Charterpoint's exclusive methodologies. The disclosure of these methodologies will provide competitors an advance as to understanding the approach to the assessments Charterpoint undertook to confirm compliance with probity principles.

The report also contains additional Intellectual Property and is therefore considered as part of 'the totality of the money-making affairs of an organisation or undertaking' as defined in the case of *Re*

Mangan and The Treasury [2005] AATA 898. Accordingly, I have decided this information is not in the public interest to release.

The attachment referred to in the Director-General brief “Management Response to the Probity Audit of the ‘Management of ACT Government Pools’ Report” is a summary of the audit report and contrary to the public interest to release on the same grounds.

- Section 2.2(a)(xvii) – prejudice the effectiveness of testing or auditing procedures;

In addition to considering Charterpoint’s Business Affairs, I have considered the impact of releasing the draft and final probity audit reports on MPC’s future audit activity. I consider it not in the public interest to release these documents as they contain identifiable testing and auditing procedures. The release of this information could reasonably prejudice the effectiveness of MPC’s auditing procedures in relation to future procurement activities.

Given the pro-disclosure bias of the Freedom of Information Act I have decided to release the Director General brief summarising the outcome of the audit. This does not reveal contain identifiable testing and auditing procedures but summarises the outcome of the audit and is therefore in the public interest to release.

Online Publishing – Disclosure Log

Under section 28 of the Act, MPC maintains an official online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to you access application will be published in the MPC disclosure log three (3) days after the date of the decision. Your personal contact details will not be published. You may view the MPC disclosure log at <https://www.act.gov.au/majorprojectscanberra>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the MPC disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
CANBERRA CITY ACT 2601

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au>

Should you have any queries in relation to your request, please contact me by telephone on (02) 6205 5288 or email MPCFOI@act.gov.au.

Yours sincerely,

Schedule 2.2(a)ii

Kylie Bailey
Information Officer
Major Project Canberra
6 May 2024

FREEDOM OF INFORMATION REQUEST SCHEDULE

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <https://www.act.gov.au/majorprojectscanberra/home>

FOI Reference Number		Request Details				
MPCFOI2024/03		<ol style="list-style-type: none"> Any communication between the Ministers office and CMTEDD regarding work order number PICM0002455 and the procurement process that is being audited through this contract. Including any briefing for the Minister, any communication between CMTEDD and the Ministers office, including any communication or briefing with the strategic communications team regarding this contract or the procurement process that is being audited through this contract. A copy of the draft probity audit findings report including any comments provided and correspondence within CMTEDD and the Ministers office regarding the draft report. A copy of the final probity audit findings report including any comments provided and correspondence within CMTEDD and the Ministers office regarding the final report. 				
Ref No.	No. of Folios	Description	Date	Status	Reason for non-release or partial release	Open Access release status
1.	1-6	Appendix 1 to Attachment A – PICM0002455 Evaluation Worksheet – Procurement Probity Audit Services	Undated	Partial	Schedule 2.2(a)xi Business Affairs	Y
2.	7-10	PICM0002455 – Procurement Plan Minute – Final - Signed	11 October 2023	Partial	Schedule 2.2(a)ii Personal Privacy	Y
3.	11-16	PICM0002455 – RFQ Statement of Requirements	11 October 2023	Full		Y
4.	17-19	PICM0002455 – Risk Assessment	11 October 2023	Full		Y
5.	20-23	PICM0002455 Supplier Response Form Template	11 October 2023	Full		Y

6.	24-25	Signed Procurement Evaluations Recommendations and Approval Minute	2 November 2023	Partial	Schedule 2.2(a)ii Personal Privacy	Y
7.	-	Draft Report – Probity Procurement Audit	18 December 2023	Withheld	Section 2.2(a)(xi) – prejudice trade secrets, business affairs or research & Section 2.2(a)(xvii) – prejudice the effectiveness of testing or auditing procedures	N
8.	-	Final Report – Probity Procurement Audit	20 March 2024	Withheld	Section 2.2(a)(xi) – prejudice trade secrets, business affairs or research & Section 2.2(a)(xvii) – prejudice the effectiveness of testing or auditing procedures	N
9.	26-28	Director General Brief	5 April 2024	Partial	Schedule 2.2(a)ii Personal Privacy	Y
10.	-	Final Report – Probity Procurement Audit	20 March 2024	Duplicate		N
11.	-	Management Response to the Probity Audit of the ‘Management of ACT Government Pools’ Report	20 March 2024	Withheld	Section 2.2(a)(xi) – prejudice trade secrets, business affairs or research & Section 2.2(a)(xvii) – prejudice the effectiveness of testing or auditing procedures	N
Total Number of Documents						



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

Supplier name	Evaluation Criteria		Value for Money Assessment and Comments i
Charterpoint Pty Ltd ABN 17 160 453 994	Required Services	6/10	<p>Charterpoint’s response provides a sound indication of their ability to deliver the requirements.</p> <p>They have provided a list of similar relevant prior projects they have delivered including the review of the procurement, contract, and supplier management for the procurement process relating to the establishment of a hydrogen refueling facility with the ACT for EPSDD. As well as a procurement audits for ACT Health and Canberra Memorial Parks.</p> <p>Their responses included a good description of the required services including a proposed format for the final report. Their response also demonstrated a focus on actionable and practical recommendations.</p>
	Standards	7/10	<p>The response indicates they have a sound understanding of and meet all the requirements of the auditing standards, audit principles and professional standards for undertaking audits.</p>
	Security and WHS	5/10	<p>The response demonstrates a commitment to adhering to all security and WHS requirements. The response acknowledges the requirement for maintaining confidentiality throughout the process.</p> <p>They have provided a transparent statement regarding conflict of interests (COI) and outlined a robust management process for managing COI throughout the deliverables.</p> <p>The response did lack details such as policies or evidence on how compliance will be maintained during delivery. E.g. records management.</p>



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

	Key Deliverables	6/10	<p>The response included a detailed explanation of their audit methodology proposed for the delivery.</p> <p>The response highlights the integration of the industry standards into the methodology as well as confirming the flexibility of the methodology to adapt to our requirements.</p> <p>The response indicated the supplier has a robust quality assurance process and confidentiality processes for conducting audits.</p> <p>The methodology was however somewhat generic and not specifically tailored to ACT Government context. Details on the specific deliverables appeared to be copied and pasted from the Request for Quote Document which does not demonstrate that there was a genuine appreciation of the requirements.</p>
	Meetings and Reporting	6/10	<p>The response included confirmation of delivery of the minimum meeting and reporting requirements including a startup meeting and final presentation meeting. However, the response did not propose regular catch-up meetings or project status reports that may have strengthened the response. The meetings proposals also lacked detail with regards to format, timing and location.</p> <p>The proposed timeline for delivery of the final report is within the required timeframes.</p>
	Specified Personnel	7/10	<p>Charterpoint’s response highlights that all proposed team members have demonstrated experience in delivering internal audit services. CVs for the team were included providing detailed information of each personnel.</p> <p>The proposed project lead has most relevant experience and has been allocated the majority (41%) of the project time allocation.</p> <p>While all specified personnel had strong audit examples, there was limited procurement audit experience across the depth of the team.</p>



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

			Charterpoint will not be using any sub-contractors.	
	TOTAL SCORE:	6.10/10		
	Total cost	Satisfactory	\$51,600 (GST Inc)	<p>The pricing quoted above is all inclusive and no additional costs for management services have been included. The suppliers pricing is consistent with panel rates and is itemized and detailed with pricing assumptions outlined.</p> <p>The higher price is driven primarily by the significant Level 5 participation and also allows for significant field work, which is likely required due to the scope of documents and personnel involved in the procurement process. Noting the experience of the evaluation team consider the price to be reasonable.</p>
	Risk rating	Low	<p>The supplier does not have any and is fully compliant with contract terms and conditions. The supplier has requested that key personnel and pricing be kept as confidential text, which is not consistent with the provision under the Act. However, this can be managed through careful drafting of the contract or negotiation with the supplier.</p>	
Schedule 2.2(a)xi	Required Services	4/10	<p>The Supplier response indicates some relevant experience delivering the required services including for MPC, Events ACT and Housing ACT.</p> <p>The response demonstrated a good understanding of the value for money principles in the ACT Government context and a pragmatic application of probity in the procurement process.</p> <p>However, the response included multiple references to the PGPA Act 2013 (Cwlth) with regard to the delivery of the proposed services and the other ACT Government project examples which demonstrates a potential lack of genuine understating of ACT Government Procurement Framework.</p>	



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

	Standards	3/10	<p>The supplier response did not specifically address compliance with relevant standards. However, the lead key personnel CV indicates having relevant qualifications and knowledge of the relevant standards.</p> <p>Overall their response was lacking evidence in how their proposed methodology is aligned to relevant audit standards and how they will be applied to the project.</p>
	Security and WHS	2/10	<p>The response indicated they will maintain the highest standards of confidentiality and integrity throughout the auditing process.</p> <p>However the criteria was not specifically addressed and there was no evidence of how security confidentiality and WHS will be maintained through the contract if they were successful.</p>
	Key Deliverables	5/10	<p>Schedule 2.2(a)xi provided a methodology with some level of detail in the response including proposed phasing, however this included apparent errors including suggesting the final probity report would be attached to a tender evaluation report.</p> <p>The proposed project timeline is quick and well within the required timeframes.</p> <p>The scope of services offered includes a number of limitations including a limit of 5 interviews which may create price risks if more interviews are required, noting the large volume of participants in the subject procurement.</p> <p>The proposed methodology included a key deliverable of an initial observation report early in the process that would be a benefit and value add to the Territory.</p> <p>Their response appeared to have copied and pasted requirements from RFQ in some parts with limited detail to demonstrate a fulsome understanding of the requirements.</p> <p>The methodology lacked clarity and in some parts appeared to be more tailored for Probity Advice services instead of Probity Audit services.</p>



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

	Meetings and Reporting	6/10	<p>The proposed meeting and reporting response meets all minimum requirements of the SOR.</p> <p>The meeting schedule was detailed with proposed timing, location preferences and frequency.</p> <p>The proposal included the value add of meetings to discuss initial findings.</p>	
	Specified Personnel	5/10	<p>The response offered two very senior key personnel. Level 5 and Level 4.</p> <p>Both specified personnel demonstrated a good level of relevant experience including delivery of similar probity audits for ACT Government and the Commonwealth.</p> <p>One of the specified personnel (Level 5) is only contributing 2 days. The Level 4 specified personnel who will be delivery most of the work does not have demonstrate professional qualifications relevant to auditing.</p> <p>No subcontractors are proposed to be used.</p>	
	TOTAL SCORE	4.16/10		
	Total cost	Satisfactory	\$38,482 (GST Inc)	<p>The proposed pricing is within the capped panel rates and is considered reasonable for the number of staff and their relevant experience. Assumptions and exclusions were not detailed in the response meaning there may be some unknown pricing risks. The price is based on a capped number of 5 interviews.</p>
	Risk rating	Medium	<p>The supplier response did not demonstrate a clear understanding of the scope of work, often appearing to be more tailored to a probity advice service than a probity audit. The response did not include an explicit statement that there was no conflict of interest or any non-compliance with the proposed contract terms and</p>	



Evaluation Report - Appendix 1

Group Evaluation Assessment

PICM0002455 – Procurement Probity
Audit Services

			conditions. The proposed methodology poses a risk that final deliverable will meet the requirements.
--	--	--	--

Preferred Supplier:

Charterpoint Pty Ltd

Overall Value for Money Comment:

Charterpoint's response is considered to offer the best value for money to the Territory. They have relevant experience delivering similar work and have offered key personnel with relevant experience and qualifications. Their proposed methodology was robust and compliant with relevant standards. While their tendered price was the higher of the two responses, this is reflective of the significant time allocated to the more senior staff, as well as a larger delivery team, both of which are considered risk mitigations for the project, noting delivery timeframes and the sensitive nature of the work. Their technical score is also higher than **Schedule 2.2(a)xi** at 6.10/10 compared to 4.16/10.

Procurement Plan Minute – PICM0002455

Date	11 October 2023
Directorate / Agency	Chief Minister, Treasury and Economic Development
Business Unit	Property and Government Insourcing Group
Contact Officer	Kyla Kerkow Kyla.kerkow@act.gov.au
Procurement Unique Identifier <small>Click here to create a Procurement Unique Identifier ⓘ</small>	PICM0002455
Procurement Title	Probity Audit
Description of Procurement	<p>ACTPG recently undertook a large complex procurement that included a two-stage procurement process for a multi-million-dollar, multi-year strategic contract.</p> <p>ACTPG require the services of a probity auditor to review the entire procurement process from planning through to contract execution to verify whether the processes undertaken were consistent with legal requirements, the ACT Government Procurement Framework, and better practice.</p> <p>The probity auditor will need to provide independent assurance about the conduct of a procurement activity and provide a comprehensive findings report, including any corrective action or observations.</p>
Procurement Method ⓘ	Panel Purchase – up to 3 quotes
Existing Whole of Government Arrangements ⓘ	<p>Is there a Whole of Government, or other standing offer arrangement such as a panel available for this procurement?</p> <p>Yes</p> <p>Using the Professional Consulting Services Panel</p>
Estimated Total Contract Term and Value (inc GST)	<p>Initial Term: 3 Months</p> <p>Contract Extension Options: 1 month</p> <p>Total Estimated Contract Value (GST inc): \$20,000</p>
Funding	<p>Has funding been approved?</p> <p>Yes</p> <p>Is part or all the funding from the Commonwealth?</p> <p>No</p>

Risk Assessment ⓘ	The Risk Rating associated with this procurement is Low
Exemption from the Quotation and Tender Thresholds in the Government Procurement Regulation 2007 ⓘ	Will this procurement use an exemption from the quotation and tender thresholds? No
Evaluation Plan: The evaluation of responses will be conducted in accordance with Clause A.B.5 (Evaluation) of the Territory Standard Terms of Quotation contained in the RFQ Statement of Requirements document.	
Charter of Procurement Values <i>Consideration of the Procurement Values is mandatory to determine which Procurement Value or Values can be achieved through your procurement. You have to incorporate at least one of the Procurement Values. Indicate which Procurement Value(s) will be achieved, by completing at least one of the following procurement values.</i>	
1. Aboriginal and Torres Strait Islander Peoples' Economic Participation ⓘ	Is there an Aboriginal and Torres Strait Islander Enterprise(s) that will be included in this procurement approach? Yes We will approach one supplier from the Professional Services and Consultancy panel that has been identified as an Aboriginal and Torres Strait Islander Enterprise.
2. Business Development and Innovation ⓘ	Is this procurement seeking quotes from one or more Businesses located in the Canberra Region and/or Small and Medium Enterprises? <input type="checkbox"/> Small to Medium Enterprise <input checked="" type="checkbox"/> Business Located in the Canberra Region <input type="checkbox"/> Neither
3. Diversity, Equality and Inclusion ⓘ	Are there other measures to achieve this Procurement Value? <i>(e.g. procurement supports an innovative solution)</i> No
3. Diversity, Equality and Inclusion ⓘ	The supplier(s) intended to be approached in this procurement are not on the Workplace Gender Equality Agency non-compliant list. Do you intend to approach a Social Enterprise(s) in this procurement approach?

	No
	<p>Do you intend to implement other measures to achieve this Procurement Value?</p> <p>No</p>
4. Environmentally Responsible ⓘ	<p>If this procurement is for goods, will it include goods or services that are environmentally conscious, or encourage, reuse, recyclable content, waste reduction or lower greenhouse gas emissions?</p> <p>No</p> <p>This Procurement Value will not be pursued for this procurement as there are no immediate opportunities relating to Environmental Responsibility.</p>
5. Fair and Safe Conditions for Workers ⓘ	<p>Does Secure Local Jobs (SLJ) apply to this procurement?</p> <p>SLJ Exempt</p>
	<p>Do you intend to implement other measures to achieve this Procurement Value? (e.g. specific WHS or safety considerations in the contract)</p> <p>No</p>
6. Transparent and Ethical Engagement ⓘ	<p>Does this procurement comply with the Competitive Neutrality in the ACT Policy?</p> <p>Yes</p>
	<p>Do you intend to implement any measures to achieve this Procurement Value? (e.g. procurement includes requirements that support elimination of modern slavery or business practices that are objectionable, dishonest, unethical or unsafe.)</p> <p>No</p>

Key Roles	
Contract Manager	Kyla Kerkow
Quotation Evaluation Team	
Quotation Evaluation Team Chair	Kyla Kerkow
Quotation Evaluation Team Member 1	Natasha Newman
Quotation Evaluation Team Member 2	Julijana Desa
Probity Advisor	Not Applicable

Directorate Procurement Unit Consultation/ Endorsement	Yes
---	-----

DIRECTOR GENERAL / DELEGATE APPROVAL	
Name	Josh Rynehart
Title/Position	Acting Executive Group Manager, Property and Government Insourcing
Directorate	Chief Minister, Treasury and Economic Development
Signature	Schedule 2.2(a)ii [Redacted Signature]
Date	11 October 2023
Statement	The PPM and attachments are Approved
Comments	

ATTACHMENTS:

Attachment 1 – Statement of Requirements

Attachment 2 – Simple Risk Assessment Checklist



Statement of Requirements

Procurement Unique Identifier: PICM0002455

RFQ Title: Probity Audit

RFQ Closing Date and Time: **Insert RFQ closing date** , 2:00PM

Directorate: Chief Minister, Treasury and Economic Development

Contact Officer Name: Natasha Newman

Contact Officer Email: actpgprocurement@act.gov.au

The ACT Government as represented by Chief Minister, Treasury and Economic Development is seeking proposals from the Professional and Consulting Services Panel suppliers (Suppliers) to engage the successful Supplier (Contractor) for the provision of services as described in this Request for Quotation (RFQ).

In submitting a response, potential Suppliers are required to comply with all requirements set out in this RFQ and if successful, agree to enter a Work Order issued under the Professional and Consulting Services Panel Deed (Contract).

Statement of Requirement

A.A.1 KEY DETAILS

RFQ Dates and Times

Issue date:	Insert date
Closing date and time:	Refer to closing date and time detailed in the VendorPanel Request.
Question closing time:	Refer to closing date for questions detailed in the VendorPanel Request.

Work Order Dates

Expected Start date:	30 October 2023
Contract Term:	31 December 2023
Contract Extension Option:	Extension of Two Period(s) each of One month.

A.A.2 THRESHOLD ASSESSMENT CRITERIA

Threshold criteria

Not applicable

A.A.3 THE REQUIREMENT

Background

ACTPG recently undertook a large complex procurement that included a two-stage procurement process for a multi-million-dollar, multi-year strategic contract.

Required Services

ACTPG require the services of a probity auditor to review the entire procurement process from planning through to contract execution to verify whether the processes undertaken were consistent with legal requirements, the ACT Government Procurement Framework, and better practice.

The probity auditor will need to provide independent assurance about the conduct of a procurement activity and provide a comprehensive findings report, including any corrective action or observations.

Review of Procurement Planning:

- Assess the initial planning phase to ensure it aligns with the ACT Government Procurement Framework.
- Verify that proper needs analysis and risk assessments were conducted.
- Evaluate the development of the procurement strategy, including market analysis and procurement documentation.

Evaluation of Procurement Process:

- Review the procurement process to ensure it adheres to legal requirements, probity and best practices.
- Examine the procurement documentation, including the Request for Proposal (RFP), evaluation criteria, and scoring methodology.

- Verify that the evaluation and selection of suppliers were fair, transparent, and objective and in accordance with the evaluation plan.
- Ensure that conflicts of interest were identified and appropriately managed throughout the process.
- Examine any negotiations or discussions with suppliers and ensure they were conducted ethically and in compliance with procurement rules.

Contract Execution:

- Review the contract award process, including the formation and execution of the contract.
- Verify that contractual terms and conditions align with the procurement process and the ACT Government Procurement Framework.
- Assess whether there were any deviations from the original procurement plan and if they were properly documented and justified.

Compliance with Legal Requirements:

- Ensure that the entire procurement process complies with relevant local and national laws, regulations, and policies.
- Verify that the procurement process adheres to any specific legislative requirements for government procurement.

Observations and Corrective Actions:

- Identify any shortcomings, deviations, or areas where the procurement process could be improved.
- Recommend corrective actions or improvements to enhance the probity and effectiveness of future procurement activities.

Independent Assurance:

Provide independent assurance to ACTPG that the procurement process was conducted with integrity, transparency, and in accordance with established rules and guidelines.

Confidentiality and Integrity:

Maintain the highest standards of confidentiality and integrity throughout the audit process.

A.A.3 (a) Standards

Standards

Not applicable

Environmental Considerations

Not applicable

Key Performance Indicators (KPI)

Not applicable

A.A.3 (b) Security

The Contractor's personnel will be required to complete Conflict of Interest and Confidentiality declarations. All information relating to the procurement is to remain confidential.

A.A.3 (c) Workplace Health and Safety

Contractor must be aware of, and when required, comply with the Work Health and Safety Act 2011

A.A.3 (d) Key Deliverables

The core deliverable is the comprehensive findings report, which must provide a detailed assessment of the entire procurement process. This report must include the following sections:

- **Executive Summary:** A concise summary of the audit's key findings, highlighting major observations and recommendations.
- **Introduction:** An overview of the audit's purpose, scope, and methodology.
- **Audit Findings:** Detailed findings related to the various aspects of the procurement process, including planning, process evaluation, and contract execution. This section should provide a clear assessment of compliance, transparency, and ethical conduct.
- **Observations and Recommendations:** Specific observations about areas where the procurement process can be improved, along with recommendations for corrective actions or enhancements. Recommendations should be actionable and practical.
- **Conclusion:** A summary of the overall assessment and the probity auditor's opinion on the integrity and compliance of the procurement process.
- **Appendices:** Supporting documents, evidence, and additional information that may be relevant to the audit findings.
- **Final Presentation:** The probity auditor may be required to present the findings and recommendations to the relevant stakeholders, such as the procurement team, management, or government officials. The presentation should provide a clear overview of the audit's results and highlight key takeaways.

A.A.3 (e) Meetings and Reporting

Meeting Requirements

The suppliers are required to attend the following meetings:

Type	Attendees	Frequency / When	Method
Initial startup meeting	Consultant Territory Project Officer	Within 3 days of contract execution	Online via Microsoft Teams
Presentation	Consultant Territory representatives	Within 1 week of final report being submitted	Face to face or online

The Territory Officer is to have a direct point of contact with a nominated officer by the Contractor who can attend short progress meetings virtually with the Territory Officer as mutually agreed for the duration of the program.

Reporting Requirements

- Prepare a comprehensive findings report that outlines the results of the probity audit.
- Include detailed observations, compliance assessments, and recommendations for improvement.
- Ensure the report is clear, well-documented, and suitable for presentation to relevant stakeholders.

Report Type	Detailed Description (including the format: excel, word, PDF or other)	Indicative date for delivery
Probity Audit Findings Report - Draft	Comprehensive findings report in Word format to allow for comments.	Within 8 weeks of undertaking review
Probity Audit Findings Report - Final	Finalised findings report in PDF format.	Within 2 weeks of receiving Territory comments

A.A.3 (f) Territory Information

The Consultant will be provided with:

- **Procurement Documentation:**

All relevant procurement documentation, including the Request for Proposal (RFP), procurement strategy, evaluation criteria, and any amendments or addenda to these documents.
- **Procurement Process Timeline:**

Timeline of the entire procurement process, including key milestones, dates, and stages from planning through to contract execution.
- **Legal and Regulatory Framework:**

Information about the legal and regulatory framework governing government procurement. This includes any specific laws, regulations, policies, or guidelines that must be followed.
- **Government Procurement Framework:**

Details of the ACT Government Procurement Framework and any specific requirements or principles it prescribes.

A.A.3 (g) Pricing

Potential Suppliers must provide detailed pricing showing how the total Contract price in the proposal has been calculated under the Suppliers Panel Deed's capped rates, including allocation of proposed staff against the Suppliers Panel Deed's classification level.

A.A.4 REQUEST FOR QUOTATION (RFQ) DISTRIBUTION

This RFQ and any updates will be distributed by via VendorPanel. Potential Suppliers may refer to VendorPanel article for [How Suppliers View/Download a Request](#) for more information.

Any questions relating to this RFQ must be directed through the VendorPanel Ask a Question function. Potential Suppliers may refer to VendorPanel article for [How Suppliers ask the buyer a Question against a Request](#) for more information.

A.A.5 LODGEMENT METHOD

Proposals should be lodged via VendorPanel by the closing date and time specified in the VendorPanel Request. Refer to VendorPanel articles for more information [Responding to Requests](#) for more information.

A.A.6 CUSTOMER'S CONTACT OFFICER

Refer to the contact details provided on the VendorPanel request.

COMPLAINTS HANDLING

A Tenderer who wishes to make a complaint about a procurement activity must follow the process outlined in the ACT Government Supplier Complaints Management Procedure. This procedure can be accessed from the ACT Procurement website at [Supplier and Tenderer Complaints - Procurement ACT](#)

Any complaints relating to this procurement should, in the first instance, be referred to the Customer's Contact Officer.

A.A.7 DRAFT ADDITIONAL CONTRACT TERMS

Not applicable

Simple Procurement Risk Assessment for Procurement Probity Audit Procurement Process

This Risk Assessment is to identify common procurement risks for simple goods and services procurements up to \$200,000 (GST incl).

Managing Risk throughout the Procurement Lifecycle

Risk should be considered at the earliest phase of procurement planning and be continuously reviewed and updated throughout the procurement lifecycle. This is important as the levels of risk may change, or new risks may arise as the procurement progresses. This checklist should be completed at the start of a procurement process and reviewed frequently as the procurement progresses to document any change in the risk profile.

Planning phase

Planning is the point at which you have decided to go ahead with a procurement. This phase involves identifying the need for the procurement, assessing risk, and thinking about how you will comply with procurement and ACT Government policy, legislation, and regulation.

#	Questions	Response
1.	<p>Is the need for the Procurement clearly defined?</p> <p><i>Note: When starting your procurement planning, it's important to define the reasons why you need to buy goods, works or services and plan for associated risks.</i></p> <p><i>Key considerations when undertaking a needs analysis:</i></p> <ul style="list-style-type: none"> • Who you are buying for and who needs the goods, works or service? • Is the procurement process the best option for achieving the intended outcome? • Can Value for Money be better achieved through insourcing, reusing, or repurposing existing goods or services? • Is it aligned to the objectives of the Territory Entity and the ACT Government? • Does it meet the expected outcomes of your procurement? • Are you clear on what good or service you are purchasing? 	Yes
2.	<p>Does the intended approach to market propose seeking less than three quotes (for procurements with an estimated value of more than \$25,000 (GST incl) but less than \$200,000 (GST incl), and if so, has an exemption from the quotation and tender thresholds been sought from the relevant delegate?</p> <p><i>Consider: quotation and Tender threshold requirements. Is an exemption from quotation and Tender threshold requirements required?</i></p> <p>For more information see the Approach to Market and Request Types Better Practice Guide</p>	No
3.	<p>Have the Whole of Life Cost of the procurement been estimated?</p>	Yes

	<p><i>Consider:</i> Acquisition costs, Operating Costs, Maintenance Costs, End of Life costs, and use a method to calculate Whole of Life Costs that is relative to the scale, scope and risk associated with the procurement.</p> <p>For further information see the Calculating Whole of Life Costs Procurement Better Practice Guide</p>	
4.	<p>Have all aspects of probity been considered and are processes in place to manage probity issues if they arise during the procurement?</p> <p><i>Consider:</i> The Probity Principles:</p> <ul style="list-style-type: none"> • Consideration of an appropriately competitive process • Fairness and impartiality • Consistency, transparency, and accountability • Identification and management of conflicts of interest • Appropriate security and confidentiality arrangements <p>Ensure you complete the probity risk assessment in the Probity in Procurement Guide and document the overall risk factor here.</p>	<p>Yes</p> <p>Probity Risk Assessment Outcome Low</p>
5.	<p>Have all ACTPS officers, employees and contracted service providers involved in the procurement completed a Confidentiality and Conflict of Interest Undertaking?</p> <p>For further information see the Conflict-of-Interest Procurement Better Practice Guide</p>	Yes
6.	<p>Have the Government Procurement Charter of Values been considered and where appropriate incorporated into the Procurement?</p> <p>For more information see the Government Procurement (Charter of Procurement Values) Direction 2020 and Charter of Procurement Values</p>	Yes
7.	<p>Is COVID 19 likely to affect supply?</p> <p><i>Consider:</i> is the supply likely to be affected by staff shortages, supply chain issues or the supplier's location (e.g., located overseas)?</p>	No
<h2>Sourcing phase</h2> <p><i>Sourcing is the point at which you are ready to go out to market and seek suppliers to fulfill the purchase requirement. This phase includes the initial sourcing of suppliers either via a panel arrangement or through the tender process, supplier evaluation, negotiation, and contract design (where necessary to do so), and contract execution.</i></p>		
8.	<p>If Secure Local Jobs Code (SLJC) applies to this Procurement do the proposed suppliers hold a current certification?</p> <p>For more information see the Secure Local Jobs Code</p>	Not applicable
9.	<p>Does the Approach to Market material include sensitive or confidential information?</p> <p><i>Note:</i> Ensure that appropriate measures are taken when providing sensitive information to suppliers such as requiring a Deed of Confidentiality to be executed before releasing the Approach to Market material to suppliers.</p>	No
10.	<p>Are all members of the procurement team experienced and completed appropriate procurement training?</p> <p>Training on ACT Government procurement processes and policies is available at HRIMS.</p>	Unknown
11.	<p>Is there a reputational risk of engaging with any of the proposed supplier(s)?</p> <p><i>Consider:</i> The reputation of the Territory in relation to its status as a model employer, that only contracts with other employers who show model behavior towards their employees. The risk to the Territory Entity posed by procuring from an unethical Tenderer. The public interest, or public confidence in the Territory and/or its procurement framework.</p>	No

12.	<p>Is there the potential for this purchase to be sensitive or subject to adverse publicity?</p> <p><i>Consider: the environmental or social impact of your purchase as well as any potential reputational risks. Does the Caretaker period add any additional risks/concerns?</i></p>	<p>Yes (document risk in a risk management plan)</p> <p>Public will be interested if the audit identifies non-compliance.</p>
-----	---	---

Managing phase

Managing is the point at which contracts have been executed. The contract and the relationship with the supplier/s are then managed from the contract start date through to contract closure. The Manage Phase ends with supplier evaluation and procurement closure procedures.

13.	<p>Will the Territory need to make up-front or “in advance” payments for this purchase?</p> <p><i>Note: Ensure you are capturing any work that is paid in advance as this needs to be captured and reported in Territory End of Financial Year information by business units.</i></p>	No
14.	<p>Does the purchase require any changes or additions to the ACT Government standard terms and conditions for contracts or requests for quote?</p> <p><i>Note: This applies if you are conducting a procurement and undertaking Contract Negotiation, Drafting and Execution. Panel arrangements or standing offer arrangements are already negotiated and in place, so may be raised on the risk register, though cannot be mitigated through changes or additions to the contract.</i></p>	No
15.	<p>Is there a requirement to transition the services from a current supplier to the new supplier?</p> <p><i>Consider: Have arrangements been made for a new procurement to commence? Have probity issues for replacement goods or services after the contract end date, where existing supplier is re-tendering, been considered? Any performance problems with suppliers have been addressed such as a contract evaluation been conducted?</i></p>	No

Summary

Further actions required following the Simple Procurement Risk Assessment

- If your response aligned with a prompt to include a risk in a risk management plan it is necessary to consider the risk, following the steps detailed in the [Procurement Risk Management Plan](#). The additional assessment of risk must be completed before progressing to the next phase of the Procurement Lifecycle.
- If your answers did not prompt a requirement to include risks in a risk management it is likely that your purchase/procurement is low risk according to the [ACTIA Risk Assessment Matrix](#).
- For more information on risk management practices visit the [ACTIA intranet](#) and the [ACTIA Risk Assessment Matrix](#).
- In the event of High and Extreme risks, the risk must be escalated to the delegate and every care should be taken to act as soon as possible to implement risk control measures where possible or take action to fix the problem.
- Identifying one or more risks based on the questions above does not necessarily preclude you from continuing your task. Any identified risks indicate the need for further consideration of the risk(s) potentially associated with your procurement and to identify mitigation strategies to help you manage these by documenting these in a [Risk Management Plan](#).

Records Management

- Ensure that this risk assessment checklist is completed and updated at each phase of the Procurement Lifecycle.
- Maintain a copy of completed the Risk Assessment Questionnaire on the completed procurement file in the approved records management system.



Professional and Consulting Services Panel
RFQ – Supplier Response Form

Insert Your Name and/or Logo Here

**Response to RFQ for the Provision of
Probity Audit**

Reference ID: PICM0002455

KEY DETAILS
RFQ Dates and Times

Issue date:	Insert date
Closing date and time:	Refer to closing date and time detailed in the VendorPanel Request.
Question closing time:	Refer to closing date for questions detailed in the VendorPanel Request.

Work Order Dates

Expected Start date:	Insert date
Contract Term:	Insert contract end date or period
Contract Extension Option:	Extension of Choose an item . Period(s) each of Insert number Choose an item. / Not Applicable.

Threshold Assessment Criteria

Please Note:

Potential Suppliers are to provide details of their compliance with A.A.2 Threshold Assessment Criteria.

Supplier Details

Include details of the contact person regarding any queries, issues, or other information for this RFQ

Supplier Name:	
Contact Name:	
Contact Position:	
Work:	
Mobile:	
Email:	
Postal Address:	

Response to A.A.3 The Requirement
Required Services

Describe how your proposal satisfies the requirements. Your response must also consider any evaluation criteria (if applicable) listed in the Statement of Requirements.

Response to A.A.3 (a) Standards

Describe how your proposal satisfies the requirements.



Response to A.A.3 (b) Security

Describe how your proposal satisfies the requirements.

Response to A.A.3 (c) Workplace Health and Safety

Describe how your proposal satisfies the requirements.

Response to A.A.3 (d) Delivery and Milestones/Timeframes

Describe how your proposal satisfies the requirements.

Response to A.A.3 (e) Meetings and Reporting

Describe how your proposal satisfies the requirements.

Specified Personnel

If required for the provision of the services of this RFQ, you may include details of specified personnel including name, role, and level classification, that you wish to nominate. Otherwise indicate 'not applicable'.

Name	Role	Level Classification

Approved Subcontractors

If it is intended to use sub-contractors to deliver all or part of the services provide details (Company Name and ABN). Otherwise indicate 'not applicable'

Note in accordance with Clause 18.4 (1) of the Deed, the Service Provider must not subcontract the provision of the Services or assign the whole or part of the Deed or a Contract without the prior written consent of the Territory.

Company Name	ABN	Percentage of work to be assigned to sub-contractor

Contract Price

Potential Suppliers are required to provide detailed pricing showing how the total Contract Price (provided in the VendorPanel response) has been calculated, including the allocation of personnel listed in the Contract Rates below and any known disbursements. Potential Suppliers may provide this detailed pricing as separate attachment.

Total Pricing for delivering Requirements:

Insert lumpsum cost for delivering the requirements.

Breakdown of Pricing

Provide the rates that will apply to the provision of the Services (capped in accordance with Schedule 3 of the Deed). If any Classification level is not required, then either leave blank or insert "n/a" for the Rate. **Notes to respondents** - Prices are to be in Australian Dollars and GST inclusive.

Classification	Estimated % time	Hourly Rate (GST incl.)	Daily Rate (GST incl.)
Level 5			
Level 4			
Level 3			
Level 2			
Level 1			

Detail any assumptions made which impact your proposed pricing.

Supplier to insert response here.

Provide additional pricing for management services connected to the delivery of the Statement of Requirements. This includes, but is not limited to reporting, knowledge sharing, meetings, etc.

Insert response using the following table:

Activity	Unit of measurement	Rate (GST incl.)

Conflict of Interest

Provide details of any actual or potential conflict of interest pursuant to clause 18.2 and any requirements as to how this is to be dealt with.

Confidential Text

The Territory may publish a public text version of any resultant Work Order. You may specify here any text within the Work Order (if any) that you wish to be considered confidential in respect of Section 35 of *The Government Procurement Act 2001* (ACT).

Parts of this Response that are to be considered as Confidential Text	Applicable grounds under section 35(1) Procurement Act
insert the Section and details of proposed Confidential Text	insert the grounds for consideration

Special Conditions of Quotation

Include details of any special conditions you wish to be considered for inclusion in the Work Order. Otherwise indicate 'not applicable'.

APPROVAL TO ENTER INTO AN ARRANGEMENT

To: Josh Rynehart, A/g Executive Group Manager, Property and Government Insourcing

Subject: PICM0002455 for the provision of Procurement Probity Services

RECOMMENDATIONS

That you:

AGREE to the recommendation(s) in the Evaluation Report (Attachment A).

AGREED / NOT AGREED / PLEASE DISCUSS

APPROVE entering into an arrangement, incorporating Territory Standard Contract Terms, with Charterpoint Pty Ltd (ABN: 17160453994), valued at \$56,100 (inclusive of GST), for a period of 2 November 2023 – 31 December 2023 with two x one-month extension options.

APPROVED / NOT APPROVED / PLEASE DISCUSS

Schedule 2.2(a)ii

Josh Rynehart

A/g Executive Group Manager, Property and Government Insourcing

02 November 2023

Key Points:

1. The procurement for the provision of Probity Audit Services was undertaken through the Professional and Consulting Services Panel. Quotes were sought from five suppliers with two responses received at the tender close time.
2. The procurement was conducted in accordance with the *Government Procurement Act 2001* (the Act), *Government Procurement Regulation 2007*, and relevant Territory procurement policies.
3. The procurement values of Business Development and Innovation was pursued through the procurement by approaching Canberra Region and small to medium enterprises.
4. The evaluation team assessed the responses and recommended that a contract with Charterpoint Pty Ltd for \$51,600 (inclusive of GST) would represent value for money for the Territory as outlined in the evaluation report. It is recommended that a contract is entered into with an indicative commencement date of 2 November 2023 for a term of 2 November 2023 – 31 December 2023 with two x one-month extension options.
5. Approval to exercise any contract variation or extension will be sought prior to varying the arrangement.
6. Charterpoint Pty Ltd did request that their rates and specified personnel be kept confidential in any resulting contract their response. Only the total cost of the contract will be included so there is no requirement to approve confidential text regarding and pricing. Due to the proposed key personnel professional experience and qualifications underpinning part of the value for money assessment, it is recommended that their names are included in the contract to ensure that the services are delivered by the personnel offered in the response and that represent value for money. Generally, personnel names do not meet the requirements for confidential text under s35 of the Act as either personal information required to be confidential under law or commercially sensitive information. If the evaluation report is approved, inclusion of personnel names without confidentiality will be negotiated with the supplier. If this cannot be agreed with

Ref:

[Insert Agency Logo]

the supplier, your approval may be sought to approved confidential text, if further justification is provided, before entering into a contract.

7. If you agree, I will send an electronic copy of the contract (Attachment B) (as a "pdf" file) to Charterpoint Pty Ltd for their signing and return. The Supplier's signed copy will be provided to the appropriate Delegate for counter-signature.
8. The Contract will commence after it has been signed by both parties and an electronic copy will be stored as a record.

Contact Officer:

Kyla Kerkow

Senior Director, Secure Local Jobs Code

1 November 2023



DIRECTOR- GENERAL BRIEF

Objective/Trim Reference: 24/29291

OFFICIAL

To: Gillian Geraghty, Director-General

From: Josh Rynehart, A/g Executive Group Manager, Property and Government Insourcing

Subject: Management Response to Probity Audit on Management of ACT Government Pools procurement.

Critical Date: 05 April 2024

Critical Reason: To ensure timely commencement and completion of identified improvement actions

Purpose

To seek your agreement to the proposed management response at Attachment B, following the independent probity audit undertaken on the Aquatic Facilities Services Agreement.

Recommendations

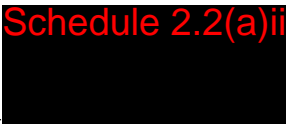
That you:

1. Agree to the proposed management response at Attachment B.

Agreed **Not Agreed / Please Discuss**

Schedule 2.2(a)ii

Gillian Geraghty, Director-General



26/03/2024

Director-General Feedback
Approved with minor edits

Background

1. On 2 November 2023, Property and Government Insourcing Division (PG&I) engaged Charterpoint Pty Ltd (Charterpoint) to undertake an independent probity audit (the Audit) of the 'Management of ACT Government Pools' procurement that was completed in September 2023.
2. A probity audit was undertaken to provide assurance that the procurement was undertaken in accordance with the ACT Government Procurement Framework. Probity audits are an effective probity risk management strategy for complex, high cost or high risk procurements.
3. A supplier complaint was received during the procurement process from an unsuccessful tenderer. The complaint was investigated under the Procurement Supplier Complaints Process and resolved through a debrief with the unsuccessful provider.
4. While the supplier complaint was considered internally as part of the supplier complaint process and was determined there was no non-compliance, the commissioning of the Audit was undertaken to validate these findings and ensure there were no potential issues with the process that needed to be addressed or opportunities for process improvement.
5. The Audit report was finalised on 31 December 2023. The final report (the Report) was provided by Charterpoint on 9 January 2024 and is at [Attachment A](#).
6. The Audit identified some partial non-compliance with the probity principles. However, the Audit did not identify any material breaches of legislation or evidence of unethical conduct.
7. A management response has been developed in response to the recommendations and observations of the Audit and can be found at [Attachment B](#). As this was a management-initiated review not conducted as part of Major Projects Canberra's (MPC) Internal Audit Program, it is not required to go to the Audit and Risk Committee, however findings will be raised for noting in a future Audit and Risk Committee meeting following your approval of the management response.

Issues

8. The Audit identified positive aspects of the conduct of the procurement, as well as areas for improvement. The Report outlined three key observations and related recommendations for continuous improvement of PG&I procurement practices, covering:
 - record keeping;
 - delegate approvals; and
 - using appropriate templates.
9. PG&I agree with all recommendations in the report and have developed proposed improvement actions to address the identified areas for improvement in the management response at [Attachment B](#).
10. The improvement actions have been developed with consideration for the ongoing changes to procurement practice under the Whole of Government Procurement Reform Program and across MPC to support Level 4 Accreditation, and will ensure that procurement practice in Property and Government Insourcing are robust, transparent,

and effective.

Financial Implications

- 11. The Improvement Action Plan can be delivered using existing resources.

Consultation

Internal

- 12. Nil.

Cross Directorate

- 13. Nil.

External

- 14. Nil.

Benefits/Sensitivities

- 15. Following publication of the Probity Audit contract with Charterpoint on the public contracts register, PG&I have received two Freedom of Information requests and a Question on Notice regarding the nature and purpose of the audit, indicating strong public interest.

Media Implications

- 16. It is not intended the Report is made public as it was a management initiated internal review. As such no media or communications plan has been developed.

Josh Rynehart
a/g Executive Group Manager, Property and Government Insourcing
20 March 2024

Action Officer: Kyla Kerkow, Senior Director, Transition Team

Attachments:

Attachment	Title
Attachment A	Probity Audit of the 'Management of ACT Government Pools' Report
Attachment B	Management Response to the Probity Audit of the 'Management of ACT Government Pools' Report