



# Multi-Use List (MUL) for the Provision of Opportunity Based Search and Rescue Services to the Australian Maritime Safety Authority

Reference Number: MUL AMSA No.953/39862

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## PART B - MULTI-USE LIST RULES

### 1. Rules

#### 1.1 Interpretation

1.1.1 Throughout this Multi-Use List (MUL), unless the contrary intention appears:

- (a) words in the singular include the plural and the plural include the singular; and
- (b) words importing a person include a partnership and a body, whether corporate or otherwise.

#### 1.2 Definitions

1.2.1 The following words have these meanings in this MUL unless the contrary intention appears:

- (a) **AMSA** means the Australian Maritime Safety Authority;
- (b) **Applicant** means any person or organisation, including any subcontractor directly supplying part of the Opportunity Services, that has applied for, or is considering applying for, inclusion on this MUL;
- (c) **Application** means any Application submitted in response to this MUL;
- (d) **Contract** means a contract between AMSA and a Successful Applicant for the provision of any of the services listed in this MUL;
- (e) **Contractor** means a Successful Applicant who has been selected from the MUL for the provision of any of the Services listed in this MUL;
- (f) **Essential Requirements** are those requirements that AMSA deems as essential in the provision of the Services;
- (g) **Contracts Officer** means the AMSA Contract Officer detailed at clause 1.3.3 of the MUL;
- (h) **Opportunity Services** means the provision of opportunity based search and rescue services;

- (i) **Successful Applicant** means an Applicant that has been included on the MUL; and
- (j) **Unsuccessful Applicant** means an Applicant that AMSA has decided will not be included on the MUL.

### **1.3 AusTender - Australian Government Tendering System**

1.3.1 AusTender is the central web-based facility for publication of Australian Government procurement information, including business opportunities, annual procurement plans and contracts awarded. The MUL will be advertised on AusTender and the AMSA web sites.

1.3.2 AMSA accepts no responsibility if an Applicant fails to become aware of any alteration, correction or notice, which would have been apparent from a visit to the AusTender website or from other information available from AMSA.

1.3.3 Applicants should direct all communications relating to this MUL to the Contracts Officer at [tenders@amsa.gov.au](mailto:tenders@amsa.gov.au).

### **1.4 Invitation Documents**

1.4.1 The invitation for inclusion on this MUL consists of the following documents:

- (a) Part A (Service Requirement);
- (b) Part B (Multi-Use List Rules); and
- (c) Part C (Application Forms).

1.4.2 An Applicant should immediately notify the Contracts Officer in writing at the address detailed in clause 1.3.3 of the MUL if it reasonably believes there is a discrepancy, error, ambiguity, inconsistency or omission in this MUL.

### **1.5 Disclosure of Information**

1.5.1 Subject to clause 1.5.2, AMSA will keep all Applications submitted confidential.

1.5.2 AMSA may disclose any information contained in or regarding an Application without written authority of the Applicant to anyone to whom disclosure is necessary to comply with any legal, policy or Commonwealth accountability requirement or to:

- (a) Parliamentary Committees;
- (b) Employees and advisers engaged by the Commonwealth; and
- (c) other Commonwealth departments, agencies, bodies, enterprises, authorities and Ministers,

for the purposes of this Application process.

### **1.6 Compliance with Commonwealth Policies and Legislation**

1.6.1 Applicants should be aware that the *Freedom of Information Act* 1982 gives members of the public certain rights of access to documents in the possession of the Commonwealth and its agencies. The Act extends as far as possible the right of the Australian community to access information

(generally documents) in the possession of the Commonwealth, which may include the Application, any subsequent Contract and related documents.

- 1.6.2 Applicants must comply with the Information Privacy Principles contained in the *Privacy Act 1988 (Cth)*, in relation to personal information handled by the Applicant.
- 1.6.3 Applicants acknowledge that AMSA is required to publish the award of all contracts valued at \$400,000 or more. This includes details of the party to whom the Contract was awarded, the Contract price and details as to confidentiality.
- 1.6.4 Applicants must be in compliance with their obligations under the *Equal Opportunity for Women in the Workplace Act 1999* and not be proposing to enter into any subcontracting arrangements with a subcontractor named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with the Act. The applicant must also not be engaging illegal workers.
- 1.6.5 Applicants must not be on the list of persons and entities designated as terrorists under part 4 of the *Charter of United Nations Act 1945* and the *Charter of United Nations (Terrorism and Dealing with Assets) Regulations 2002*.
- 1.6.6 Applicants must not have had a judicial decision against it (not including decisions under appeal) relating to employee entitlements where it has not paid the claim.
- 1.6.7 Applicants should be aware that under the GST Law, the Commonwealth is treated as a taxable enterprise. GST will be applied to goods and services supplied by a Successful Applicant in respect of the performance of a Contract.

## **1.7 Australian Business Number (ABN)**

- 1.7.1 Your ABN must be stated in Part C.

## **1.8 Applicable Law**

- 1.8.1 The law applying in the Australian Capital Territory applies to the MUL, and the Application process. Each Application must comply with all relevant laws in preparing and lodging its Application and taking part in the MUL process.

## **1.9 Ownership of Application**

- 1.9.1 All documents submitted in response to this MUL shall become the property of the Commonwealth. The Commonwealth may use, reproduce or modify any Application for the purposes of assessing the Application, but will keep Applications confidential (subject to clause 1.5.2).

## **1.10 Financial Viability**

- 1.10.1 Applicants must not be bankrupt, insolvent or have traded as insolvent in the last 12 months.

## **1.11 Right to Terminate**

1.11.1 AMSA may terminate the MUL or the process to establish the MUL at any time.

## **1.12 Right to Request Further Information**

1.12.1 Notwithstanding any other requirement of the MUL, AMSA may require the Applicant to submit additional information to allow further consideration of its Application.

1.12.2 If the Applicant fails to submit any of the information so required by the date and time stipulated by AMSA, its Application may be excluded from further consideration.

1.12.3 Any request by AMSA for further information shall not be, nor be deemed to be, a representation by AMSA that the Application will be, or is likely to be, accepted.

## **1.13 Addenda**

1.13.1 If AMSA amends this MUL, electronic advice will be issued to current suppliers listed on the MUL. Applicants should ensure details provided in their Application are correct and up to date.

## **1.14 No Contract**

1.14.1 Nothing in this MUL shall be construed so as to give rise to a Contract between AMSA and the Applicant...

## **1.15 Removal from the Multi-Use List**

1.15.1 AMSA may at any time after the establishment of the MUL, remove a Successful Applicant from the MUL.

# **2. Applications**

## **2.1 Preparing and submitting Applications**

2.1.1 Applications must be lodged in accordance with the Part A Service Requirement and must include:

- (a) completed Part C forms; and
- (b) copies of all requested documentation.

2.1.2 The MUL remains open for lodgement of Applications until AMSA determines there is no longer a need for the Services. At this time, AMSA will advise all members of the MUL and any current Applicants for membership of the list that the MUL is to be terminated. Unless Applications for Tier 2-4 services are submitted by 9 November 2009, AMSA cannot guarantee that the Application will be considered as part of the first competitive process.

2.1.3 Applications should be marked 'Application for Opportunity Based SAR Services MUL' and should be emailed to the Contracts Officer at

[tenders@amsa.gov.au](mailto:tenders@amsa.gov.au) . Any questions arising during this MUL process, or requests for clarification, must be made by email to the Contracts Officer.

2.1.4 An Applicant's participation in any stage of the MUL process is at the Applicant's sole risk, cost and expense. The onus is on the Applicant to inform itself appropriately.

## **2.2 Subcontracts**

2.2.1 Any Contract entered into requires that the Applicant not subcontract the whole of its obligations under a Contract but the Applicant may, with the prior consent of AMSA, subcontract part of its obligations.

## **2.3 General Conditions of Contract**

2.3.1 AMSA expects Successful Applicants to be able to provide the Services in accordance with AMSA's relevant draft Contract.

2.3.2 AMSA reserves the right to negotiate the terms and conditions of any Contract entered into with any or all of the Applicants. If AMSA and an Applicant cannot agree on the terms and conditions to be applied to the Contracts created under this MUL, AMSA reserves the right to remove the Applicant from the MUL in accordance with clause 1.21.

2.3.3 AMSA does not warrant or make any representation that a Successful Applicant will be invited to participate in a tender process for any work or will be guaranteed any quantity of work.

2.3.4 AMSA may, at its discretion, procure any of the type of Services covered by this MUL without using any of the suppliers listed on the MUL.

2.3.5 If AMSA rejects an Application or removes an Applicant from the MUL, AMSA will inform the potential supplier and, on request, provide the potential supplier with a written explanation of the reasons for its decision.

## **3. Evaluation**

### **3.1 MUL Evaluation Process**

3.1.1 Applications to the MUL will be assessed on a pass/fail basis consistent with Commonwealth purchasing policies. The *Commonwealth Procurement Guidelines* may be found at the Department of Finance & Deregulation website: [www.finance.gov.au](http://www.finance.gov.au).

3.1.2 Applicants must complete all Part C documents and submit the completed documents as their Application. Applicants must confirm compliance with the rules and specifications in order to be considered for membership of the MUL.

3.1.3 AMSA may seek clarification of Applications or require further information from all or any Applicants.

## **3.2 Notification**

- 3.2.1 AMSA will advise Successful Applicants that they have been included on the MUL in writing at the end of the MUL evaluation process.
- 3.2.2 AMSA will notify each Unsuccessful Applicant in writing that its Application has not been accepted/shortlisted and, where requested, provide Unsuccessful Applicants with a debrief of the reasons for its decision.
- 3.2.3 Unsuccessful Applicants are entitled to a debrief upon request. This debrief will provide feedback on their Application against the requirements, but will not refer to any other Application and will not disclose the confidential information of any other Applicant.

## **3.3 Selection from the MUL**

- 3.3.1 For Transport and Logistics operators, AMSA may directly select Successful Applicants from the MUL on a case by case basis to supply services during an incident. No ongoing contract will be signed.
- 3.3.2 With regard to Supplementary operations, AMSA expects to select and contract all Successful Applicants, provided the proposed hourly rate is accepted.
- 3.3.3 With regard to Tiered Services, AMSA intends to competitively select Successful Applicants from the MUL and contract those services. Evaluation criteria for Tiered Services include, but may not be limited to:
- Aircraft and crew capability;
  - Base facilities;
  - Aircraft availability;
  - Commitment by the Applicant to providing SAR services; and
  - Pricing.
- 3.3.4 AMSA may also undertake site checks of Tiered Service Applicants to confirm capability.