



Aboriginal and Torres Strait Islander Health Practice	Occupational Therapy
Chinese Medicine	Optometry
Chiropractic	Osteopathy
Dental	Pharmacy
Medical	Physiotherapy
Medical Radiation Practice	Podiatry
Nursing and Midwifery	Psychology

Australian Health Practitioner Regulation Agency

## Request for Proposal (RFP)

AHPRA – Australian Health Practitioner Regulation Agency

**RFP title:** Development, implementation and delivery of Chinese Medicine Board of Australia regulatory examinations

**Reference number:** 201907-01

**Date of issue:** 15<sup>th</sup> of August 2019

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## Introduction

### The opportunity

The Australian Health Practitioner Regulation Agency (AHPRA) is the national organisation responsible for implementing the National Registration and Accreditation Scheme (the National Scheme) across Australia.

AHPRA works in partnership with national health practitioner boards (National Boards) to ensure that the community has access to a safe health workforce across the 15 professions currently registered under the National Scheme. Every decision AHPRA and National Boards make is guided by the Health Practitioner Regulation National Law as in force in each state and territory (the National Law).

AHPRA has an office in each state and territory responsible for the majority of operational matters and a national office in Melbourne. AHPRA reports to a Ministerial Council. AHPRA supports the operations of the National Boards for each profession covered by the scheme, and the state and territory boards and committees established by the National Boards.

The services provided by AHPRA to the National Boards employ best practice approaches to regulation and cover registration functions, the management of a national public register of health practitioners, the handling of notifications on behalf of the Boards and, subject to decisions by states and territories, responsibility to the National Boards for the highest standards of professional investigations and disciplinary prosecutions.

The fifteen health professions included in the scheme are:

- Chiropractic
- Chinese Medicine
- Dental
- Medical
- Medical radiation practice
- Nursing and midwifery
- Optometry
- Aboriginal and Torres Strait Island Health Practice
- Occupational therapy
- Osteopathy
- Paramedicine
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology

AHPRA is seeking responses to this RFP for the provision of goods and/or services as outlined in Part A.2 – Specifications

### Structure of the Request for proposal (RFP)

This RFP comprises the following documents:

- **Introduction** – contains an overview of the opportunity presented.
- **Part A – The Request for proposal (RFP)**
  - A.1 – About this RFP provides establishment details about the procurement opportunity.
  - A.2 – Specifications provides the technical requirements for the goods and/or services in respect of which the organisation invites offers.
- **Part B – Conditions of participation** sets out the conditions applying to the RFP and the RFP process.
- **Part C – Proposed contract** sets out the proposed terms and conditions that will apply to the provision of the goods and/or services as set out in *Part A.2 – Specifications*.
- **Part D – The offer** specifies the information to be provided in an offer and may also specify any information to be provided by an invitee by other means. This part may be in a template format for completion.

## **Conditions**

1. All invitees wishing to participate in this RFP process for the supply of goods and/or services must comply with the conditions contained in:
  - 1.1. Part A.1 – About this RFP, and
  - 1.2. Part B – Conditions of participation.
2. By submitting an offer, the invitee agrees to be bound by these conditions.
3. The conditions contained in this RFP apply to:
  - 3.1. the RFP and any other information given, received or made available in connection with the RFP, including any additional materials, revisions, addenda.
  - 3.2. the RFP process, and
  - 3.3. any communications (including any briefings, presentations, meetings or negotiations) about the RFP or the RFP process.

## Part A – The Request for Proposal (RFP)

### A.1 – About this RFP

#### 1. Establishment details

RFP title:	Development, implementation and delivery of Chinese Medicine Board of Australia regulatory examinations
RFP reference number:	20190701

#### Organisation details

Organisation name:	Australian Health Practitioner Regulation Agency (AHPRA)
Organisation address:	G.P.O Box 9958, Melbourne, VIC 3001   <a href="http://www.ahpra.gov.au">www.ahpra.gov.au</a>

#### Organisation contact

##### Project manager

Name:	Christine Wang / Oliver Song
Position title:	Corporate Supplies and Services Category Manager
Business unit:	Business Services
Contact details:	<a href="mailto:Christine.wang@ahpra.gov.au">Christine.wang@ahpra.gov.au</a> / (03) 8708 9253

#### Closing time

##### Closing time

2pm Australian Eastern Standard time (AEST) 6 September 2019

#### Lodgement details

Email response to [procurement@ahpra.gov.au](mailto:procurement@ahpra.gov.au)

#### Briefing session

##### Briefing session

Briefing session time and date:	Time: 3pm AEST
	Date: 23 August 2019

Online briefing – Details to be communicated

## Indicative timetable

This timetable is an indication of the timing of the RFP process and may be changed by the organisation in accordance with *Part B – Conditions of participation*.

Activity	Date
RFP issued:	15 August 2019
RFP briefing:	3pm AEST 23 August 2019
End of period for questions or requests for information: (see clause 2.2 of Part B.2)	2pm AEST 28 August 2019
Closing time for offers: (see clause 3.3 of Part B.2)	2pm AEST 6 September 2019
Intended date for execution of proposed contract(s):	by 30 October 2019
Intended contract start date:	when signed – start by 31 October 2019

## Additional materials

The following information may help with the development of an offer in response to this RFP.

## Evaluation criteria

RFP will be considered and evaluated and potential Partner Providers identified based on the following criteria:

### **1. Relevant experience in delivering written and clinical examinations to assess individuals' capability to practise Chinese Medicine safely and competently in Australia**

All RFP will need to demonstrate that the respondent has relevant experience in delivering written and clinical examinations to assess an individual's capability to practise Chinese Medicine safely and competently in Australia in the following Divisions of the register of Chinese Medicine practitioners:

- acupuncturists
- Chinese herbal medicine practitioners
- Chinese herbal dispensers

### **2. Types of written and clinical examinations that can be delivered by the respondent, including mechanisms for assuring ongoing reliability and validity**

All RFP need to include details of the types of written and clinical examinations that the respondent could deliver if selected by the CMBA as a Partner Provider, including any information available on the steps the respondent would take to ensure the ongoing reliability and validity of its delivery of these examinations.

The CMBA's expectation is that the written examinations will be delivered in a multiple choice question format but may include short answer questions if reliability and validity of these is established.

The CMBA's expectation is the clinical examinations will use multiple simulated patients and/or clients in a real clinical setting, and include assessment of an individual's ability to practise more complex and higher risk areas of practice in the following Divisions of the register of Chinese Medicine practitioners:

- acupuncturists
- Chinese herbal medicine practitioners

- Chinese herbal dispensers

All RFP need to include detailed information about the facilities, including locations, that will be used to deliver the written and clinical examinations.

### **3. Costs to implement the written and clinical examinations, including value for money**

All RFP need to include a detailed *indicative* budget with itemised details of income and expenditure, including any proposed charges to the CMBA and fees to examination candidates for the following two areas of work:

- a. involvement in the implementation phase of examination development (including validation of written examination questions, piloting clinical examination matrices and training examiners), and
- b. delivery of the types of written and clinical examinations described under criterion 2.

### **4. Willingness to collaborate with other partner providers, if required**

The CMBA may select more than one Partner Provider from this expression of interest. If this occurs, the CMBA may require collaboration between Partner Providers.

All RFP need to indicate whether or not the respondent is willing to collaborate with other Partner Providers if required. The CMBA will also consider RFP from consortiums of potential Partner Providers. A consortium is a group of education providers, professional organisations and/or other bodies who submit a single RFPS that addresses the evaluation criteria for the group).

### **5. Ability to partner with the CMBA and AHPRA in October 2019 and deliver CMBA Regulatory Examinations by April 2020**

Respondents to the RFPS must confirm that, subject to being selected:

1. the respondent is able to partner with the CMBA and AHPRA in October 2019 to assist in the implementation phase of examination development (including validation of written examination questions, piloting clinical examination matrices and training examiners). Payment for this activity will be negotiated with selected Partner Providers based on the information provided under criterion 3.
2. The respondent will be able to deliver the CMBA Regulatory Examinations by April 2020.

## A.2 – Specifications

The Chinese Medicine Board of Australia (CMBA) with the assistance of the Australia Health Practitioner Regulation Agency (AHPRA) is developing blueprint specifications for written and clinical regulatory examinations to assess if individuals possess the knowledge, skills, and professional attributes required by the CMBA for competent and ethical practice for each Division of the register of Chinese Medicine practitioners - acupuncturist, Chinese herbal medicine practitioner and/or Chinese herbal dispenser. .

When the blueprint specifications are finalised, the CMBA and AHPRA will work with relevant experts to develop written and clinical regulatory examinations against these specifications. These examinations will assess theoretical and practical requirements for practice as an acupuncturist, Chinese herbal medicine practitioner and/or Chinese herbal dispenser in Australia. The clinical examination will cover the requirements for safe and competent diagnosis and treatment of patients.

The CMBA will use these examinations to enable applicants for general registration as an acupuncturist, Chinese herbal medicine practitioner and/or Chinese herbal dispenser to demonstrate they possess the knowledge, skills, and professional attributes if they do not hold an approved (Australian) qualification and when recency of practice or performance matters raise concerns about an individual's competence to practise.

The purpose of this expression of interest (RFPS) is to seek submissions from bodies interested in and delivering the CMBA written and clinical examinations for each Division of the register of Chinese Medicine practitioners. These bodies must also be able to work with the CMBA and AHPRA during the implementation phase of examination development (including validation of written examination questions, piloting clinical examination matrices and training examiners).

Submissions are acceptable from individual bodies such as educational institutions or professional associations or from a consortium of bodies. The CMBA may select more than one partner provider to deliver the examinations.

Responses to the RFPS must include any costs for involvement in the implementation phase of examination development (including validation of written examination questions, piloting clinical examination matrices and training examiners). It would be expected that partner providers will set fees payable by examinees to cover their ongoing costs to deliver the examinations.

## Background

### The Chinese Medicine Board of Australia

Members of the CMBA are appointed by the Australian Health Workforce Ministerial Council. The CMBA works in partnership with 14 other National Boards and AHPRA to implement the National Registration and Accreditation Scheme (National Scheme). The aim of the National Scheme is to protect the public by ensuring that only suitably trained and qualified practitioners who practise safely and ethically are registered.

Functions of the CMBA include:

- developing standards, codes and guidelines for the Chinese Medicine profession
- approving accreditation standards and accredited courses of study
- registering Chinese Medicine practitioners and students
- handling notifications, complaints, investigations and disciplinary hearings
- overseeing assessment of overseas trained practitioners who apply for registration as an acupuncturist, Chinese herbal medicine practitioner and/or Chinese herbal medicine dispenser in Australia, and determining their suitability for registration

## AHPRA

AHPRA provides support to the National Boards for each profession covered by the scheme, in exercising their functions and administers procedures to ensure the efficient and effective operations of the National boards. This includes any state and territory boards and committees established by the National Boards.

The services provided by AHPRA to the National Boards employ best practice approaches to regulation and cover registration functions, the management of a national public register of health practitioners, the receipt of complaints on behalf of the National Boards and, subject to decisions by states and territories, responsibility to the National Boards for the highest standards of professional investigations and disciplinary prosecutions.

AHPRA is responsible for engaging external bodies on behalf of National Boards

### **Assessing applicants who do not hold approved qualifications**

The Chinese Medicine Board of Australia (the CMBA) has the statutory responsibility to assess applications for registration in the divisions of acupuncturists, Chinese herbal medicine practitioners and Chinese herbal dispensers. Applicants may hold Australian or overseas qualifications.

Section 53 provides several pathways for applicants to meet the qualification element of eligibility for general registration if they do not hold an approved (Australian) qualification:

To qualify through the section 53(c) pathway, an individual must hold a qualification relevant to the profession, **and successfully complete an examination or other assessment required by the CMBA**. This pathway can only be used if an individual does not hold an approved (Australian) qualification and is not qualified through the section 53(b) pathway.

The CMBA may also require an individual to undertake an examination or assessment under the National Law when recency of practice or performance matters raise concerns about their competence to practise.

The CMBA needs ensure it has a consistent, reliable, and valid regulatory examination or assessment, which will be used to determine if an individual possesses the knowledge, skills, and professional attributes required by the CMBA for competent and ethical practice in Australia.

### **Interim examination**

The CMBA currently has an interim examination arrangement that assesses individuals in a clinical setting.

The CMBA wishes to replace the interim examination with a comprehensive regulatory examination that includes both theoretical and clinical assessment components, and to deliver this examination in partnership with one or more providers.

### Chinese Medicine Board of Australia (CMBA) Regulatory Examinations

The CMBA wishes to appoint one or more Partner Providers (education institutions, associations and/or other bodies) to deliver regulatory examinations to assess if individuals possess the knowledge, skills, and professional attributes required by the CMBA for competent and ethical practice in Australia in the following divisions of the register:

- acupuncturists
- Chinese herbal medicine practitioners
- Chinese herbal dispensers

The purpose of the CMBA Regulatory Examinations is to predict future performance of an individual as a competent and ethical practitioner in Australia. The examinations will assess performance for regulatory purposes (rather than educational purposes) and include both theoretical and clinical assessments.

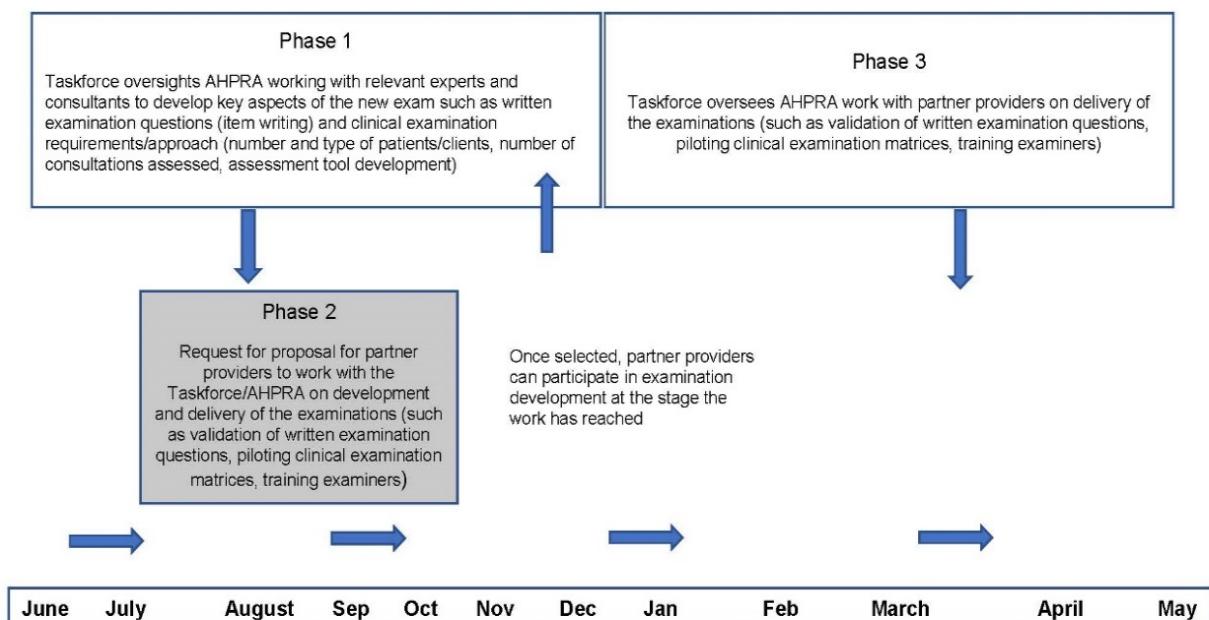
The CMBA and AHPRA will work with experts to develop theoretical and clinical assessments to meet the CMBA's approved specifications for the CMBA Regulatory Examinations (currently being developed). The CMBA and AHPRA will work with one or more Partner Providers during the implementation phase of examination development (including validation of written examination questions, piloting clinical examination

matrices and training examiners. The CMBA will appoint one or more Partner Providers to deliver the CMBA written and clinical examinations for each Division of the register of Chinese Medicine practitioners.

The CMBA Regulatory Examinations will be offered to candidates from April 2020.

A diagram outlining the phases of work to develop and implement the exams and the role of the partner providers is below.

#### Examinations development and delivery project overview



## **Part B – Conditions of participation**

### **B.1 – Complaints Procedure**

Any complaints by an invitee about the procurement process are to be addressed to the Procurement and Strategy Manager at AHPRA and submitted by email to [procurement@ahpra.gov.au](mailto:procurement@ahpra.gov.au) or as hard copy to G.P.O Box 9958, Melbourne, VIC 3001.

### **B.2 – Request for Proposal (RFP)**

#### **1.1. RFP**

- 1.1.1 Legal entities, companies, consortiums and alike are invited to submit a proposal for the provision of goods and/or services as set out in Part A.2 – Specifications.
- 1.1.2 Nothing in this RFP is to be construed, interpreted or relied on, whether expressly or implied, as an offer capable of acceptance by any person, or as creating any form of contractual, promissory, restitutionary or other rights.
- 1.1.3 No binding contract or other understanding (including any form of contractual, promissory, restitutionary or other rights) for the supply of the goods or services will exist between the organisation and any invitee unless and until the organisation has signed a formal written contract as contemplated in clause 6.1 below.
- 1.1.4 All entities (whether or not they submit an offer) having obtained or received this RFP may only use it, and the information contained in it, in compliance with the conditions contained in Part A.1 and Part B.

#### **1.2. Accuracy of RFP**

- 1.2.1 AHPRA does not warrant the accuracy of the content of this RFP and will not be liable for any omission from the RFP documents.
- 1.2.2 If an invitee finds any discrepancy, ambiguity, error or inconsistency in the RFP or any other information provided by the organisation (other than minor clerical matters), the invitee must immediately notify the organisation in writing, so that there is fair opportunity to consider what corrective action is necessary (if any).
- 1.2.3 If there is any inconsistency between any of the documents, or parts of the documents constituting this RFP, the project manager will determine the order of precedence. The project manager will notify all invitees in writing where a determination is made under this clause 1.2(c).

#### **1.3. Additions and amendments**

AHPRA reserves the right to change any information and/or to issue addenda to the RFP before the closing time. Where AHPRA exercises its right to change information in accordance with this clause 1.3, the organisation may seek amended offers from invitees and may amend the closing time to allow invitees sufficient time to amend their offer.

#### **1.4. Availability of additional materials**

Additional Materials (if any) may be accessed in the manner set out in Item 9 of Part A.1. Invitees should familiarise themselves with the additional materials.

#### **1.5. Representation**

No representation made by or on behalf of AHPRA in relation to this RFP (or its subject matter) will be binding on the organisation unless the representation is expressly incorporated into the contract(s) ultimately entered into between the organisation and an invitee.

## **1.6. Licence to use Intellectual Property Rights**

People obtaining or receiving this RFP and any other documents issued in relation to the RFP may use the documents only for the purpose of preparing an offer.

Such Intellectual Property Rights as may exist in the RFP and any other documents provided to the invitees, by or on behalf of AHPRA in connection with the RFP process, are owned by (and will remain the property of) the organisation except to the extent expressly provided otherwise.

## **1.7. Confidentiality**

AHPRA may require people and/or businesses wishing to access or obtain a copy of the RFP or certain parts of it, or any additional materials, to execute a deed of confidentiality (in a form required by or satisfactory to the organisation) before or after access is granted or a copy is provided.

Regardless of whether a deed of confidentiality is executed in relation to the RFP, invitees obtaining or receiving the RFP must keep the content of the RFP and such other information confidential and not disclose or use that information except as required for the purpose of developing an offer in response to the RFP.

# **2. Communication**

## **2.1. Communication protocol**

All communications relating to this RFP and the RFP process must be directed to the project manager.

## **2.2. Requests for clarification**

Any questions or requests for clarification or further information about this RFP or the RFP process must be submitted to the project manager in writing at least five days before the closing time.

AHPRA is not obliged to respond to any question or request.

AHPRA may make available to other prospective invitees details of such a question or request together with any response, in which event those details shall form part of this RFP.

## **2.3. Briefing session**

AHPRA will hold briefing sessions at the location(s) and time(s) specified in Item 7 of Part A.1. An invitee must attend the briefing session if it is specified as 'mandatory'. If an invitee fails to attend a mandatory briefing session, the organisation may disqualify the invitee from further participating in the RFP process.

## **2.4. Unauthorised communication**

Communications (including promotional or lobbying activities) with staff of the organisation or consultants helping the organisation with the RFP process are not allowed during the RFP process except as provided in clause 2.1 above, or otherwise with the prior written consent of the project manager.

Nothing in this clause 2.4 is intended to prevent communications with staff of, or consultants to, the organisation to the extent that such communications do not relate to this RFP or the RFP process.

Invitees must not engage in any activities or obtain or provide improper help that may be perceived as, or that may have the effect of, influencing the outcome of the RFP process in any way. Such activities or help may, in the absolute discretion of the organisation, lead to disqualification of an invitee.

## **2.5. Anti-competitive conduct**

Invitees and their representatives must not engage in any collusive, anti-competitive or similar conduct with any other invitee or person about the:

- 2.5.1 preparation, content or lodgement of their offer
- 2.5.2 evaluation and clarification of their offer, and
- 2.5.3 conduct of negotiations with AHPRA.

In addition to any other remedies available to it under law or contract, AHPRA may, in its absolute discretion, immediately disqualify an invitee that it believes has engaged in such collusive or anti-competitive conduct.

## 2.6. Consortia and trustees

Where the invitee is a member of a consortium, the offer must stipulate which part(s) of the goods and/or services that each entity comprising the consortium would provide and how the entities would relate to each other to ensure full provision of the required goods or service. All consortium members are to provide details relating to their legal structure, and where applicable, provide details of their special purpose vehicle established to meet the requirements of the RFP.

## 2.7. Complaints about this RFP

An invitee with a complaint about this RFP or the RFP process which has not been resolved in the first instance with the project manager must follow the complaints process of the organisation as detailed in Part B.1.

## 2.8. Conflict of interest

Invitees and their representatives must not place themselves in a position that may give rise to an actual, potential or perceived conflict of interest between the interest of AHPRA and the invitee's interests during the RFP process.

Invitees are required to disclose any conflicts of interest in their offer and also notify the organisation if any conflict of interest arises after lodgement of their offer.

AHPRA may disqualify an invitee from the RFP process if the invitee fails to notify the organisation of any conflict of interest.

# 3. Submission of offers

## 3.1. Lodgement

Offers must be lodged by the closing time and only by the means set out in Item 5 of Part A.1. The closing time may be extended by the organisation in its absolute discretion. Where AHPRA extends the closing time, it will provide written notice to invitees.

All offers lodged after the closing time will be recorded by the organisation. The determination of the organisation as to the actual time that the invitee's response is lodged is final.

Where this RFP needs or allows offers to be lodged via the internet through the website nominated at Item 5 of Part A.1:

- invitees must submit documentation that has been virus checked and is free from viruses, and
- invitees are deemed to accept the online user agreement applying to that website and must comply with the requirements set out on that website.

Where this RFP needs or allows offers to be lodged in hard copy, packages containing the offer must be marked with the information set out in Item 5 of Part A.1 and must be placed in the Tender Box at the address which is set out in Item 5 of Part A.1. Failure to do so may result in disqualification from the RFP process.

## 3.2. Late offers

If an offer is lodged after the closing time, it may be disqualified from the RFP process and may be ineligible for consideration unless:

- 3.2.1 the invitee can clearly document to the satisfaction of the organisation that an event of exceptional circumstances caused the offer to be lodged after the closing time, and
- 3.2.2 the organisation is satisfied that accepting a late submission would not compromise the integrity of the market approach.

The determination of the organisation as to the actual time that the invitee's response is lodged is final. All offers lodged after the closing time will be recorded by the organisation.

AHPRA will inform an invitee whose offer was lodged after the closing time of their ineligibility for consideration.

### 3.3. Providing an offer

It is the responsibility of all invitees to:

- 3.3.1 understand the requirements of the RFP, the RFP process, any reference documentation or other information in relation to the RFP
- 3.3.2 ensure that their offer addresses all the information fields in Part D with the information requested, is presented in the required format as set out in Part D, conforms with word limits (if specified) and is accurate and complete
- 3.3.3 make their own enquiries and assess all risks about this RFP and the RFP process
- 3.3.4 ensure that they comply with all applicable laws with regard to preparing their offer and participating in the RFP process (including Chapter 2 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic))
- 3.3.5 meet all costs and expenses related to the preparation and lodgement of its offer, any subsequent negotiation, and any future process connected with or relating to the RFP process, and
- 3.3.6 ensure that offers remain valid and open for acceptance for a minimum of 120 days from the closing time. (This period may be altered by mutual agreement between the organisation and the invitee).
- 3.3.7 ensure that the offer is not conditional on:
  - 3.3.6.1 any type of board, committee, third party or regulatory approval or consent;
  - 3.3.6.2 conducting due diligence or any other form of enquiry or investigation,
  - 3.3.6.3 the invitee stating that it wishes to discuss or negotiate any commercial terms of the proposed contract
  - 3.3.6.4 ensure the offer includes a GST exclusive price, the GST payable and the total cost for the goods and/or services, and
  - 3.3.6.5 provide additional information in a timely manner as requested by AHPRA.

### 3.4. Errors in an offer

If an invitee identifies an error in their offer (excluding clerical errors which would have no bearing on the evaluation), they must promptly notify the organisation.

The organisation may allow an invitee to correct an unintentional error in their offer where that error becomes known or apparent after the closing time, but in no event will any correction be allowed if the organisation reasonably considers that the correction would materially alter the offer.

### 3.5. Use of an offer

On submission, all offers become the property of the organisation. The invitee will keep all ownership rights in any intellectual property contained in their offer however each invitee, by submission of their offer, is deemed to have granted a licence to the organisation to reproduce the whole, or any portion of their offer for the purposes of enabling the organisation to evaluate the offer.

## **4. Compliance with specifications and proposed contract**

### **4.1. Compliance statement**

Invitees are required to provide a statement of its compliance with *Part A.2 – Specification* and *Part C – Proposed contract*. Further instructions about requirements of the Compliance statement are contained in *Part D – the offer*.

## **5. Evaluation**

### **5.1. Evaluation process**

AHPRA will evaluate all offers complying with the conditions of this RFP, including late offers where the organisation is satisfied of the matters referred to in Item 3.2 of Part B.2.

AHPRA will evaluate offers in accordance with the evaluation criteria stipulated at Item 9 of Part A.1. In the event that one or more of the evaluation criteria are subjective, then the organisation reserves the right to exercise discretion.

An offer from an invitee will not be deemed to be unsuccessful until such time as the invitee is formally notified of that fact by the organisation.

The organisation may in its absolute discretion:

- 5.1.1 reject an offer that does not include all the information requested or is not in the format required
- 5.1.2 after concluding a preliminary evaluation, reject any offer that in its opinion is unacceptable
- 5.1.3 disregard any content in an offer that is illegible without any obligation whatsoever to seek clarification from the invitee
- 5.1.4 disqualify an incomplete offer or evaluate it solely on the information contained in the offer
- 5.1.5 alter the structure and/or the timing of the RFP or the RFP process
- 5.1.6 vary or extend any time or date specified in the RFP for any or all invitees
- 5.1.7 elect not to appoint any invitee or enter into a contract with any invitee
- 5.1.8 cease to proceed with or suspend the RFP process before the execution of a formal written contract
- 5.1.9 consider alternative offers, or
- 5.1.10 call for new offers.

### **5.2. Clarification of an offer**

If in the opinion of AHPRA, an offer is unclear in any respect, the organisation may seek clarification from an invitee. Failure to supply clarification to the satisfaction of the organisation may render the offer liable to disqualification.

AHPRA is under no obligation to seek clarification and reserves the right to disregard any clarification that the organisation considers to be unsolicited or otherwise impermissible in accordance with the conditions set out in Part A – About this RFP and Part B – Conditions of participation.

### **5.3. Discussion with invitees**

AHPRA may:

- 5.3.1 negotiate with one or more invitees and allow any invitee to vary its offer
- 5.3.2 interview, negotiate or hold discussions with any invitee or prospective invitee on any matter contained (or proposed to be contained) in an offer to the exclusion of others, or
- 5.3.3 request some or all invitees to conduct site visits, provide references and additional information, and/or make themselves available for panel interviews.

## **6. Preferred invitee**

### **6.1. No legally binding contract**

Selection as a preferred invitee does not give rise to a contract (express or implied) between the preferred invitee and the organisation for the supply of goods and/or services. No legal relationship will exist between the organisation and the preferred invitee until such time as a binding contract is executed by both parties.

### **6.2. Pre contractual negotiations**

AHPRA may in its absolute discretion decide not to enter into pre-contractual negotiations with a successful invitee.

The invitee is bound by its offer and if selected as the successful invitee, must enter into a contract on the basis of the offer without negotiation.

## **7. Disclosure requirements**

### **7.1. Disclosure of offer contents and offer information**

Offers will be treated as confidential by AHPRA. The organisation will not disclose offer contents and information except:

- 7.1.1 as required by law (including, for the avoidance of doubt, as required under the *Freedom of Information Act 1982 (Vic)* (FOI Act))
- 7.1.2 for the purpose of investigations by the Australian Competition and Consumer Commission or other government authorities having relevant jurisdiction;
- 7.1.3 to external consultants and advisers of the organisation engaged to help with the RFP process, or
- 7.1.4 general information from invitees needed to be disclosed by government policy.

## **8. Invitee warranties**

By submitting an offer, an invitee warrants that:

- 8.1 in lodging its offer it did not rely on any express or implied statement, warranty or representation, whether oral, written, or otherwise made by or on behalf of the organisation or its Representatives other than any statement, warranty or representation expressly contained in the RFP
- 8.2 it has examined this RFP, and any other documents referenced or referred to herein, and any other information made available in writing by the organisation to invitees for the purposes of submitting an offer
- 8.3 it has sought and examined all necessary information which is obtainable by making reasonable enquiries relevant to the risks and other circumstances affecting its offer
- 8.4 it otherwise accepts and will comply with the rules set out in this *Part A.1- About this RFP* and *Part B – Conditions of participation*, and
- 8.5 it will provide additional information in a timely manner as requested by the organisation to clarify any matters contained in the offer.

## **9. Organisation rights**

Notwithstanding anything else in this RFP, and without limiting its rights at law or otherwise, AHPRA reserves the right, in its absolute discretion at any time, to:

- 9.1 vary or extend any time or date specified in this RFP for all or any invitees, or
- 9.2 terminate the participation of any invitee or any other person in the RFP process.

## **10. Law**

### **10.1. Governing law**

This RFP process is governed by the Laws.

### **10.2. Compliance with law**

Invitees must comply with all applicable laws in preparing and lodging its offer and in taking part in the RFP process.

Any invitee, if requested by the project manager, must submit evidence of its compliance with any relevant laws.

## **11. Interpretation**

### **11.1. Definitions**

<i>Additional materials</i>	means any of the materials or all of them as specified at Item 8 of Part A.1.
<i>Alternative offer</i>	means an offer made by an invitee as an alternative to their primary offer. An Alternative offer may be made by an invitee as part of their offer or may be sought by the organisation following the Closing Time.
<i>Closing Time</i>	means the time specified in Item 4 of Part A.1 by which offers must be received by the organisation.
<i>Evaluation criteria</i>	means the criteria set out at Item 9 of Part A.1.
<i>Goods</i>	means the goods or other products required by the organisation as set out in Part A.2 – <i>Specifications</i> .
<i>Intellectual property Rights</i>	includes all present and future copyright and neighbouring rights, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
<i>RFP</i>	means the opportunity set out in each of the documents identified in the Introduction to the RFP including this Part B – <i>Conditions of Participation</i> , the RFP process, any Additional Materials and any other documents so designated by the organisation.
<i>RFP process</i>	means the process started by the issuing of this RFP (be it a request for quote, request for tender or any other process by which the organisation seeks an offer for the supply of goods and or services) and concluding on formal announcement by the organisation of the selection of a preferred invitee(s) or on the termination of the process.
<i>Invitee</i>	means any entity that submits an offer in response to the RFP. An invitee may also be known as a tenderer, provider, registrant, bidder or supplier.
<i>Item</i>	means an item of this RFP.
<i>Late offer</i>	means an offer deemed to be a late offer under clause 3.2(a) of Part B.2.
<i>Laws</i>	means:
	(a) State and Australian law, including common law, legislation and subordinate legislation; and

	(b) ordinances, regulations and by-laws of relevant government, semi-government or local authorities.
<i>Offer</i>	means a document lodged by an invitee in response to an RFP containing an offer to provide goods and/or services in accordance with the RFP. This may also be referred to as a quote, tender, submission, registration or bid.
<i>Organisation</i>	means the Australian Health Practitioner Regulation Agency (AHPRA) issuing this RFP.
<i>Organisation contact</i>	means the person(s) so designated at Item 3 of Part A.1.
<i>Part</i>	means a part of this RFP
<i>Project manager</i>	means the person designated at item 3 of Part A.1.
<i>Proposed contract</i>	means the agreement and any other terms and conditions contained in or referred to in Part C – <i>Proposed contract</i> .
<i>Representative</i>	means a party and its agents, servants, employees, contractors, associates, invitees and anyone else for whom that party is responsible.
<i>Services</i>	means the services required by the organisation as stipulated in Part A.2 – <i>Specifications</i> .
<i>Specifications</i>	means any specifications or description of the organisation's requirements contained in Part A.2 – <i>Specifications</i> .
<i>Tender box</i>	a secure location in which offers are placed.

## 11.2. Interpretation

In this RFP, unless expressly provided otherwise:

- 11.2.1 The singular includes the plural and vice versa, a reference to 'includes' or 'including' means includes or including without limitation
- 11.2.3 '\$' or dollars is a reference to the lawful currency of Australia, and
- 11.2.4 if a word or phrase is defined, its other grammatical forms have corresponding meanings.

## **Part C – Proposed contract**

## **Part D – The offer**

