CONDITIONS OF EOI

1. GENERAL
	1. General
		1. The AFP requires a Medical Officer in the AFP Canberra SHIELD Hub.
		2. In conducting this EOI, the AFP is seeking an outcome that will:
			1. provide the AFP with value for money; and
			2. support the successful implementation of SHIELD.
	2. Interpretation of EOI
		1. The EOI comprises:
			1. these Conditions of EOI;
			2. the Expression of Interest for a Medical Officer in the AFP Canberra SHIELD Hub; and
			3. the Application Form.
		2. In these Conditions of EOI, unless the contrary intention appears, words, phrases and acronyms have the following meanings:
			1. ‘**Applicant**’ means a person that submits an Application.
			2. ‘**Application**’ means a response provided by an Applicant to this EOI, and includes any information provided by an Applicant as part of an interview under clause 5.2, in response to any clarification request by the AFP under clause 5.6, or as part of Stage Two of the EOI under clause 5.1.
			3. ‘**Application Form**’ means the Response to the Expression of Interest form that is part of the EOI Notice.
			4. ‘**EOI**’ means this procurement process as described in the EOI Notice and these Conditions of EOI.
			5. ‘**EOI Details**’ means the information under that heading in the EOI Notice.
			6. ‘**EOI Notice**’ means the Expression of Interest for a Medical Officer in the AFP Canberra SHIELD Hub.
			7. ‘**Working Day**’ means a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory.
		3. In this EOI, unless the contrary intention appears:
			1. headings are for the purpose of convenient reference only and do not form part of this EOI;
			2. the singular includes the plural and vice-versa;
			3. a reference to one gender includes all others;
			4. a reference to a person includes a body politic, body corporate or a partnership;
			5. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action is to be done no later than the end of the next Working Day;
			6. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended or replaced from time to time, and includes a reference to any subordinate legislation made under the Act;
			7. a reference to a clause includes a reference to a subclause of that clause;

* + - 1. a reference to a ‘dollar’, ‘$’, ‘$A’ or ‘AUD’ means the Australian dollar unless otherwise stated;
			2. a reference to a specification, publication, AFP policy or other document is a reference to that specification, publication or document, in effect on the date of release of this EOI or alternatively, a reference to a revised version of the document if agreed in writing between the parties;
			3. the word ‘includes’ in any form is not a word of limitation; and
			4. a reference to a party includes that party’s administrators, successors, and permitted assigns, or its officers, employees, agents or advisers.
		1. In the event of any inconsistency between these Conditions of EOI and any other part of the EOI Notice, these Conditions of EOI prevail to the extent of the inconsistency.
		2. To the extent permitted by law, no binding contract (including a process contract) or other understanding (including any form of contractual, quasi-contractual, or restitutionary rights, or rights based upon similar legal or equitable grounds) will exist between the AFP and an Applicant unless and until a contract is signed by the AFP and the successful Applicant.
		3. The AFP will not be responsible for any costs or expenses incurred by any Applicant in preparation or lodgement of an Application or taking part in this EOI.
	1. Amendment of the EOI
		1. The AFP may amend this EOI upon giving Applicants timely written notice of an amendment.
		2. If the AFP amends this EOI under clause 1.3.1 after Applications have been submitted, it may seek amended Applications.
		3. Applicants will have no claim against the AFP or its officers, employees or advisers in connection with either the exercise of, or failure to exercise, the AFP’s rights under this clause 1.3.
	2. Termination, Suspension or Deferral of Request for Application Process
		1. Without limiting its other rights under this EOI or at law or otherwise, the AFP may suspend, defer or terminate this EOI process at any time. The AFP will notify Applicants to this effect
	3. Other AFP Rights
		1. Without limiting its other rights under this EOI or at law or otherwise, the AFP may at any time during this EOI, do all or any of the following:
			1. consider and accept or reject any Application that is nonconforming;
			2. terminate further participation in the EOI by any Applicant for any reason, regardless of whether the Application submitted conforms with the requirements of this EOI;
			3. negotiate with an Applicant and enter into a contract outside this EOI process;
			4. permit any person to participate as an Applicant in the EOI process prior to the final date for submission of Applications;
			5. shortlist an Application without prior notice to any other Applicant;
			6. require additional information from any Applicant;
			7. change the structure and timing of the EOI and notify the Applicants under clause 1.3;
			8. negotiate with one or more Applicants;
			9. request, attend or conduct any site inspections; or
			10. request, attend or observe any product, plant, equipment or other demonstration, trial or test.
		2. Any time or date in this EOI is for the convenience of the AFP. The establishment of a time or date in this EOI does not create an obligation on the part of the AFP to take any action or exercise any right established in this EOI or otherwise.
	4. Australian Government Requirements
		1. Applicants acknowledge that as a Commonwealth agency, the AFP is subject to legislative and administrative accountability and transparency requirements, including disclosures to Ministers and other Government representatives, Parliament and its Committees and the publication of information in respect of this EOI. Any contract resulting from this EOI will also be subject to these requirements, including that contractual provisions (and related matters) may be disclosed to Ministers, other Government representatives, Parliament and its Committees.
		2. Applicants agree that the AFP may provide any information collected or provided during the course of this EOI to other Commonwealth agencies or regulatory bodies.
	5. Procurement Complaints
		1. In the event Applicants wish to lodge a formal complaint regarding this EOI, the complaint is to be directed in writing to the Coordinator, National Procurement and Contracts: NPC-Procurement-General@afp.gov.au. On the request of the AFP, Applicants are to cooperate with the AFP in the resolution of any complaint regarding this EOI.
1. APPLICATION PREPARATION
	1. Respondents to Inform Themselves
		1. The AFP makes no representations or warranties that the information in this EOI or any information communicated or provided to Applicants during this EOI is, or will be, accurate, current or complete.
		2. Applicants are responsible for:
			1. examining this EOI, any documents referenced in or attached to this EOI and any other information made available by the AFP to Applicants in connection with this EOI;
			2. obtaining and examining all further information which is obtainable by the making of reasonable enquiries relevant to the risks, contingencies, and other circumstances having an effect on their Applications; and
			3. satisfying themselves as to the accuracy and completeness of their Applications, including their pricing.
		3. Applicants prepare and lodge Applications based on the Applicants’ acknowledgment and agreement that they:
			1. do not rely on any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending these conditions other than as expressly stated by the AFP in writing;
			2. have relied entirely upon their own enquiries and inspection in respect of the subject of their Application;
			3. are aware of the Australian Consumer Law (Schedule 2 to the *Competition and Consumer Act 2010* (Cth)) and Division 137 of the *Criminal Code* (the Schedule to the *Criminal Code Act 1995* (Cth)) under which giving false or misleading information is a serious offence; and
			4. are aware of the impact of the *Auditor-General Act 1997* (Cth) on its participation in this EOI.

* 1. Application Preparation
		1. Unless otherwise expressly agreed in writing by the AFP, Applicants are to submit Applications in accordance with the EOI Notice.
		2. Supporting documentation may be provided to enhance the Application.
	2. Responsibility for Application Costs
		1. The Applicant’s participation in any stage of this EOI, or in relation to any matter concerning this EOI, is at the Applicant’s sole risk, cost and expense. The AFP will not be responsible for any costs or expenses incurred by any Applicant in preparation or lodgement of an Application or taking part in this EOI.
		2. In addition to clause 1.2.4, the AFP is not liable to the Applicant for any costs on the basis of quantum meruit or any other contractual, quasi contractual or restitutionary grounds whatsoever as a consequence of any matter or thing relating to, or incidental to the Applicant’s participation in this EOI, including without limitation, instances where:
			1. an Applicant is not engaged to undertake the performance of any resultant contract;
			2. an Applicant is not shortlisted to participate in any subsequent stage of this EOI;
			3. the AFP decides not to proceed with this EOI; or
			4. the AFP exercises any other right under this EOI or at law.
	3. Contact Officer for Request for Application Inquiries
		1. The Contact Officer for this EOI is as specified in the EOI Details.
		2. Applicants are to direct any questions or concerns regarding this EOI to the Contact Officer in writing.
		3. Applicants may submit questions or concerns to the Contact Officer up until 2pm (Australian Eastern Daylight Time) on 8 March 2021. Questions or concerns received after this time will not be considered or responded to.
		4. Any question or concern submitted by Applicants is submitted on the basis that the AFP may circulate it and the AFP’s response to all other Applicants without disclosing the source of the question or concern, confidential information or the substance of the proposed Application.
1. APPLICATION LODGEMENT
	1. Lodgement of Applications
		1. Applications must be submitted by the EOI Closing Time and Date to the Lodgement Details set out in the EOI Details.
	2. Period of Application
		1. Applications submitted in response to this EOI must remain valid for a period of not less than 3 months after the EOI Closing Time and Date.
		2. The AFP may request an extension of the period identified in clause 3.2.1.
2. MATTERS CONCERNING APPLICATION
	1. Confidential Information
		1. The AFP may require an Applicant to execute a deed of confidentiality before being provided with confidential information of the AFP. Whether or not such a deed is required, and without limiting an Applicant’s obligations under the deed, Applicants are to:
			1. treat this EOI and any information provided to Applicants by or on behalf of the AFP in connection with this EOI as confidential;
			2. not disclose or use that information except as strictly required for the purpose of submitting an Application in accordance with this EOI; and
			3. not disclose that information to another Applicant.
		2. In accordance with paragraph 7.23 of the Commonwealth Procurement Rules, the AFP will treat Applications as confidential.
	2. Collusive Bidding
		1. Respondents and their officers, employees, agents and advisers are not to engage in any collusive bidding, anti-competitive conduct, or any other similar conduct in relation to:
			1. the preparation or lodgement of Applications; and
			2. the evaluation and clarification of Applications,

in respect of this EOI or any other procurement process being conducted by the AFP.

* + 1. For the purposes of clause 4.2.1, collusive bidding, anti-competitive conduct, or any other similar conduct may include the disclosure, exchange and clarification of information (in any form) whether or not such information is confidential to the AFP or any other Applicant or any other person or entity.
		2. In addition to any other remedies available under any law or any contract, the AFP may immediately reject any Application lodged by an Applicant that, in the AFP’s reasonable opinion, has engaged in any collusive bidding, anti-competitive conduct, or any other similar conduct with any other Applicant or any other person in relation to the preparation or lodgement of Applications whether in respect of this EOI or any other procurement process being conducted by the AFP.
	1. Unlawful Inducements
		1. Respondents and their officers, employees, agents and advisers are to, at all times during this EOI, comply with any applicable laws (including foreign anti-corruption legislation) or AFP policies regarding the offering of unlawful inducements in connection with the preparation of their Application. The AFP may exclude an Application from further consideration if in the opinion of the AFP, an Applicant or their officers, employees, agents or advisers fails to comply with this clause 4.3.1.
	2. Improper Assistance
		1. Applications that, in the opinion of the AFP, have been compiled:
			1. with the improper assistance of current or former AFP personnel or service providers;
			2. with the use of information unlawfully obtained from the AFP;
			3. in breach of an obligation of confidentiality to the AFP; or
			4. contrary to these Conditions of EOI,

may be excluded from further consideration.

* 1. Conflict of Interest
		1. An Applicant is not to, and is to ensure that its officers, employees, agents and advisers do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of the AFP and the Applicant’s interests during this EOI.
		2. If during this EOI a conflict of interest arises, or appears likely to arise, the Applicant is to notify the AFP immediately in writing and take such steps as the AFP may require to resolve or otherwise deal with the conflict. If the Applicant fails to notify the AFP or is unable or unwilling to resolve or deal with the conflict as required, the Application may be excluded from further consideration.
	2. Use of Application Documents
		1. All Application documents submitted in response to this EOI become the property of the AFP and the AFP may use, retain and copy the information contained in those documents for the purposes of:
			1. evaluation, shortlisting and selection of any response to this EOI and the entry into a contract with any successful Applicant;
			2. verifying the currency, consistency and adequacy of information provided under any other procurement process conducted by the AFP; and
			3. the development of any other procurement process conducted by the AFP.
		2. The AFP may disclose all or part of the Application documents to a third party for the purposes of assisting the AFP in the conduct of this EOI for the purposes contained in clause 4.6.1. The AFP may obtain appropriate confidentiality undertakings from the third party prior to disclosure.
		3. Nothing in this clause 4.6 affects the ownership of the intellectual property in the information contained in the Application documents.
	3. Return of Information to the AFP
		1. Without limiting the provisions of any deed of confidentiality that may be required by the AFP under clause 4.1, the AFP may, at any stage during or after this EOI, require that all information (whether confidential or otherwise) provided to Applicants in any tangible form (including all copies of the information) be:
			1. returned to the AFP, and that Applicants promptly return all such information to the address identified by the AFP; or
			2. destroyed by the Applicant, in which case the Applicant is to promptly destroy all such information and provide the AFP with written certification of such destruction.
	4. Part, Joint and Alternative Applications and Contract Options
		1. The AFP will not consider an Application for part of the services required under this EOI.
		2. The AFP will not consider alternate Applications that do not comply with the requirements of this EOI.
		3. Without limiting the AFP’s rights, if the AFP were to contract at the conclusion of this EOI, its intention is to enter into a contract with a single legal entity that will be the party responsible for the performance of the contract. The AFP will not enter into a contract with any form of consortium. Furthermore, the AFP only intends to enter into a contract with an individual (including a sole trader) or a firm that primarily exists to provide the services of an individual.
	5. AFP May Rely on Applications
		1. By submitting an Application, the Applicant:
			1. undertakes to promptly advise the AFP in writing through the Contact Officer of any change in circumstances which causes any information contained in its Application to become inaccurate or misleading in a material respect;
			2. warrants that any pricing it provides as part of its Application is accurate;
			3. acknowledges that the AFP will rely on the above warranty and undertaking when evaluating the Applicant’s Application; and
			4. acknowledges that the AFP may suffer loss or damage if the Applicant breaches the above warranty or undertaking.
	6. Organisational Suitability Assessment
		1. The AFP has responsibilities for ensuring high standards of professional conduct are maintained by all personnel involved in the performance of the AFP’s functions. Therefore, prior to the awarding of any contract, the AFP may require an Applicant, and any of its directors or personnel to submit to an organisational suitability assessment (OSA) to determine if they are suitable to perform the services as set out in this EOI. The OSA addresses behaviours such as honesty, trustworthiness, maturity, tolerance and loyalty, and will be conducted by the AFP’s Personnel Security Team.
		2. Following the conduct of an OSA, the AFP will notify an Applicant of whether the Applicant or any of their directors or personnel have been assessed as not suitable to provide services to the AFP. The AFP will not be required to substantiate or provide reasons for its assessment.
		3. Applicants or personnel assessed as not being suitable to provide services to the AFP as part of the OSA will not be permitted to provide services to the AFP under this EOI or any resultant contract, and will not be sponsored by the AFP for any required security clearance.
	7. Security
		1. The AFP has certain responsibilities for ensuring that an appropriate security environment for the protection of its people, information, functions and official resources is maintained. The AFP has responsibility for ensuring that any services provided by a service provider on behalf of the AFP are delivered at the required standard, and that official resources including accountable items and information related to the services are secured from unacceptable risk.
		2. The AFP reserves the right to request fingerprints and perform such security, probity, financial and referee checks and procedures as the AFP, at its absolute discretion, may determine are necessary in relation to the Applicant, its partners, associates and personnel. Applicants should be aware that persons performing work under any resultant contract will be subject to varying security vetting requirements as the AFP, at its absolute discretion, may determine are necessary from time to time.
		3. At a minimum, Applicants can expect that persons having access to AFP premises will be required to obtain and maintain an AFP Negative Vetting Level 1 security clearance. The AFP will meet the costs associated with the security clearance process.
	8. AFP Appointees
		1. The AFP has responsibilities for ensuring that high standards of professional conduct are maintained by all personnel involved in the performance of AFP functions and the delivery of services to the AFP. As a result, under section 35(2) of the *Australian Federal Police Act 1979* (Cth) (AFP Act), the AFP may determine Applicants and their personnel to be AFP Appointees (as defined in the AFP Act) for the purposes of the AFP Act.
		2. If persons are determined to be AFP Appointees, they will be subject to security and professional standards obligations under the AFP Act, the AFP Code of Conduct, and the AFP Professional Standards framework.
1. COMPETITIVE EVALUATION PROCESS
	1. Procurement Process
		1. Subject to clause 1.1 and this clause 5.1, the AFP intends to conduct this EOI in several stages as outlined below:
			1. Receipt of Applications and Preliminary Screening: After the EOI Closing Time and Date, the AFP will conduct an initial screening of Applications to ensure compliance with the Minimum Content and Format Requirements and the Conditions for Participation. Applications that pass the Preliminary Screening will proceed to Stage One.
			2. Stage One: The AFP will conduct an initial evaluation of Applications in accordance with clause 6, and develop a shortlist of Applicants from whom it may request further information, interviews, and Applications. The AFP may set aside any Application not shortlisted.
			3. Stage Two: In its absolute discretion, the AFP may request further information from one or more shortlisted Applicants, including pricing information. The AFP will evaluate further information received in accordance with clause 6, and may select one or more preferred Applicants to enter contract negotiations with.
		2. This clause 5.1 provides an overview of how this EOI may be conducted for information purposes only, and does not limit or otherwise affect the AFP’s rights under these Conditions of EOI. Applicants must not rely on this clause 5.1 as any representation or guarantee by the AFP that this EOI will be conducted in any particular manner.
	2. Application Interviews
		1. The AFP may, after the EOI Closing Time and Date, and having provided Applicants with reasonable notice, require any or all Applicants to participate in an interview with the AFP in relation to their Application.
	3. Application Evaluation
		1. Applications will be evaluated on the basis of likelihood to result in best value for money consistent with AFP procurement policies, using the evaluation criteria at clause 6.
		2. The AFP may:
			1. consider additional information related to any evaluation criteria;
			2. use material relating to one evaluation criterion in the evaluation of other criteria; or
			3. subject to its intellectual property and confidentiality obligations, use material submitted by the Applicant in other procurement processes conducted by the AFP for purposes consistent with the AFP’s procurement objectives.
		3. If additional criteria are intended to be applied for the purposes of evaluation, the AFP will notify Applicants in accordance with clause 1.3, who will be given an opportunity to respond.
		4. The AFP may exclude Applications which are incomplete or clearly non-competitive from consideration at any time during the evaluation process, or may consider such Applications and seek clarification under clause 5.6.
		5. If an Applicant is found to have made a false, misleading or deceptive claim or statement, the AFP may exclude the Application from further consideration at any time.
	4. Minimum Content and Format Requirements
		1. The AFP mayexclude an Application from further consideration if the AFP considers that the Application was not submitted using the Application Form.
	5. Conditions for Participation
		1. The AFP will exclude an Application from further consideration if the AFP considers that the Applicant does not meet the Mandatory Requirements set out in the EOI Notice.
	6. Clarification
		1. The AFP may, at any time during this EOI, seek clarification from and enter into discussions with any or all of the Applicants in relation to their Application.
		2. The AFP may seek additional information in respect of any aspect of an Application at any time. The AFP may use such information in interpreting the Application and in evaluating the cost and risk to the AFP of accepting the Application.
		3. The AFP is not under any obligation to take into account additional information provided by an Applicant in response to a request.
	7. Debriefing of Applicants
		1. Applicants will be notified whether they have been successful or unsuccessful and may request a debriefing. The AFP will determine the format (oral or written), time and location for any debriefing. Applicants requiring a debriefing should contact the Contact Officer specified in clause 2.4.
		2. Applicants will be debriefed against the evaluation criteria contained in clause 6.
2. EVALUATION CRITERIA
	1. Evaluation Criteria

* + 1. Subject to clause 5.3, the criteria to be applied for the purposes of evaluation are as follows, not in any order of importance:
			1. the Applicant’s demonstrated skills and experience as they relate to the duties as provided in the EOI Notice;
			2. the Applicant’s demonstrated key skills and competencies as they relate to the key skills and competencies as provided in the EOI Notice;
			3. the Applicant’s qualifications as they relate to the duties and being able to perform the duties as described in the EOI Notice; and
			4. (Stage Two only) the indicative prices and pricing structure.