

# Request For Tender

## Part Five – The Schedules

---

This is **PART FIVE** of the Request for Tender  
Registry Licence Agreement for .au Second Level Domains

There are seven Parts to the RFT. This Part must  
be read in conjunction with the other Parts of the RFT.

## **Request For Tender Part Five – The Schedules**

---

# Schedule 1 – Tender

---

## FORM OF TENDER

The party specified below hereby tenders to undertake the contract to provide Registry Services for the Designated 2LDs.

Full Company Name:	
ACN or ABN:	
Registered office address:	

The Respondent warrants that it has not submitted the tender as agent for a third party or as trustee of a trust (unless this is clearly disclosed in the tender).

DATED 2005

**EXECUTED** by \_\_\_\_\_ )  
 (*insert Respondent's name*) by being signed by )  
 those persons who are authorised to sign for )  
 the company: )

..... Director  
 ..... Full name  
 ..... Usual address  
 ..... Director (or Company Secretary)  
 ..... Full name  
 ..... Usual address

## Schedule 2 – General Information

---

### TENDER QUESTIONNAIRE

Respondents are required to submit such information as is necessary to enable auDA to assess their ability to carry out Registry Services.

This questionnaire has been prepared to assist Respondents in supplying this information, and is structured in a manner which is consistent with the evaluation criteria. Please answer each question in full, even if the answer to the question has been provided elsewhere in your response.

<b>Respondent's Name:</b>	
<b>Address:</b>	
<b>Telephone No:</b>	
<b>Facsimile No:</b>	
<b>Email address:</b>	
<b>Alternate Contact</b>	
<b>Name:</b>	
<b>Email address:</b>	

#### 1. THRESHOLD REQUIREMENTS

---

##### 1.1 Australian Presence

Please state how the Respondent meets the Australian incorporated entity requirements described in clause 7.2.1, and how it meets or will meet the Australian presence requirements described in clause 7.2.2.

##### 1.2 Separation of Registrar Operations

Please state how the Respondent meets or will meet the separation of Registrar operations requirements described in clause 7.3.

##### 1.3 Compliance with Published Policies and Technical Specification

Please provide details about the Respondent's ability to comply with the Technical Specification and those of auDA's Published Policies that are relevant to the Registry Operator. Please ensure that all the questions contained within the Technical Specification are answered and all information requested therein is provided.

## 1.4 Financial viability

- 1.4.1 Please provide details about the Respondent's financial viability, and state how the Respondent meets the financial viability requirements described in clause 7.5.
- 1.4.2 Give details of the Respondent's current financial position, including accounts of the Respondent for the past two years and other documentation to evidence its position. How does the Respondent propose to fund the payment of the Licence Fees? Where the Respondent is a new entity formed for the purpose of responding to this RFT, please provide the requested information in relation to the Respondent's Related Bodies Corporate.
- 1.4.3 List banks or other financial institutions from which references may be obtained.

## 1.5 Registry Licence Agreement

Please confirm that the Respondent is prepared to, and will, enter into the Registry Licence Agreement in the current form, as described in clause 7.6.

## 2. EVALUATIVE CRITERIA

---

### 2.1 Proven capacity to manage a domain names registry or comparable registry, or experience in DNS operations

- 2.1.1 What experience has the Respondent had in managing a domain names registry or a comparable registry? If the registry:
- 2.1.1.1 is a domain names registry, describe registry operations that the Respondent has operated from a technical and policy perspective; or
- 2.1.1.2 is not a domain names registry, explain how the experience gained in operating that type of registry is relevant to operating a domain names registry?
- 2.1.2 What experience has the Respondent had in DNS operations?
- 2.1.3 What equipment does the Respondent own at present or intend to purchase, that will be available for this Contract? Please state current location of this equipment, and the security measures in place to protect this equipment.

### 2.2 Price of domain names to Registrars

Give details of the Respondent's model for charging Registrars (attach detailed financial model). The model may include a fixed and volume related component. It should also include details of how the charges have been determined.

Please provide all proposed charges **exclusive** of GST and auDA's Domain Name Fee (see clause 5.4.3).

**NOTE:** a tender which proposes the same price for each domain name across the Designated 2LDs, without taking into consideration the intention and objectives of each 2LD, will not necessarily receive the highest score in the evaluation process (even if this results in a lowest priced tender overall). auDA will evaluate the entire pricing model to take into account the intention and objectives of each specific 2LD.

**2.3 Organisation and management capability**

2.3.1 How many years has the Respondent been in business under its present business name?

2.3.2 What is the experience of the principal staff of the Respondent (existing and those whom the Respondent intends to employ) in managing a registry (of any type), and in the type of work it would be required to perform under this Contract? Attach resumes of directors and principal staff and summarise experience of those staff.

Name and Position of principal staff	Location and Description of Work and for Whom Work Performed	In what capacity?	Experience

2.3.3 State the number of personnel that the Respondent intends to employ on performing this Contract

2.3.4 Please provide details of premises or proposed premises to be occupied by the Respondent, and security measures for the protection of the premises.

2.3.5 Please provide details of the location or proposed location of the offices of the Respondent, where staff will be located.

**2.4 Services to Registrars**

2.4.1 Please provide details of proposed services to be provided to Registrars, (for example, reporting and communicating with Registrars, help desk, marketing subsidies or rebates, banking and accounting arrangements, provision of tool kit).

2.4.2 If the Respondent has a standard form of registry/registrar agreement which the Respondent will require Registrars to enter, please provide a form of that agreement. If not, please provide details of the proposed key terms of that agreement.

**2.5 Strategic plan and operations plan**

Give details of the Respondent’s strategic plan and operations plan for at least the term of the Registry Licence Agreement. This should include targets for number of domain name registrations in the Designated 2LDs for at least the term of the

Registry Licence Agreement. It should also include detailed operating budgets and cashflow.

### **3. TRANSITION PLAN**

---

Please provide a detailed plan to transition Registry Services from AusRegistry (that is, the incumbent Registry operator) to the Respondent, and the migration of Registry data from AusRegistry to the Respondent by 30 June 2006. The plan should include information about:

- 3.1 proposed timetable for transition and migration;
- 3.2 information about any proposed interruption to Registry Services or the domain names system;
- 3.3 contingency plans;
- 3.4 any adverse effect of the transition and migration, on Registrars, registrants, Internet users;
- 3.5 any assistance from and actions required of Registrars; and
- 3.6 any assistance from and actions required of AusRegistry.

### **4. AUDA'S PRINCIPAL OBJECTIVES**

---

- 4.1 Please provide any information which may assist auDA to evaluate how the Respondent's tender reflects auDA's principal objectives, as set out in auDA's constitution, including:
  - 4.1.1 administering the .au ccTLD in the interests and for the benefit of the Australian Internet community; and
  - 4.1.2 maintaining and promoting the operational stability and utility of the .au ccTLD.
- 4.2 Give details of the Respondent's model for encouraging performance of covenants by it under the Registry Licence Agreement (for example, incentive payments and liquidated damages provisions).
- 4.3 Give details of the Respondent's capacity to contribute to the development of the domain name industry in Australia.

### **5. GENERAL INFORMATION**

---

- 5.1 If the Respondent is a subsidiary of another corporation, provide details of its holding company and ultimate holding company, and the nature of intercompany commitments and guarantees. What is the holding company and the ultimate holding company's principal business?

- 5.2 In what other type of business has the Respondent a financial interest?
- 5.3 Give details of any action, claim or proceedings which have been concluded, commenced but not resolved, or currently threatened against the Respondent, or any director of the Respondent:
- 5.3.1 within the past five years; or
- 5.3.2 in respect of proceedings by a Government Agency, within the past ten years.
- Where the Respondent is a new entity formed for the purpose of responding to this RFT, please provide the requested information in relation to the Respondent's Related Bodies Corporate.
- 5.4 Give details of any conviction of any serious offence (that is, one that carries a penalty of imprisonment of five years or more on first conviction, irrespective of the penalty actually imposed) in respect of any director of the Respondent.
- 5.5 Give any other details of the Respondent's ability to carry out the Registry Licence Agreement, not answered in any of the above questions.
- 5.6 Provide a list of information or documents attached to these schedules by the Respondent.

## **6. OTHER INFORMATION**

---

Please attach:

- 6.1 any additional information required to be provided under this RFT; and
- 6.2 any other information which the Respondent would like the Evaluation Panel to take into consideration when evaluating the Respondent's tender.



## Schedule 3 – Statement of Conformance

---

### STATEMENT OF CONFORMANCE

The Respondent must signify whether its tender is a Conforming Tender or a Non-Conforming Tender by striking out below that which is not applicable.

This tender is a ~~\*\*Conforming Tender~~/Non-Conforming Tender.

Should the tender be a Non-Conforming Tender, the Respondent must list below all areas of non-conformance and the reasons for the non-conformance.

Area of Non-Conformance	Reason for Non-Conformance

**NAME OF RESPONDENT:** \_\_\_\_\_

**SIGNATURE OF RESPONDENT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
 (or authorised representative)

## Schedule 4 – Receipt of Addenda

---

### RECEIPT OF ADDENDA

The Respondent is to list below addenda that it received prior to the Closing Time for Tenders from auDA. The Respondent acknowledges that its tender has been prepared having regard to these addenda.

Addenda No.	Brief Description (with page no., clause no. or schedule no.)	Date Received

**NAME OF RESPONDENT:** \_\_\_\_\_

**SIGNATURE OF RESPONDENT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
*(Authorised representative)*

## Schedule 5 – Statutory Declaration

---

### STATUTORY DECLARATION BY DIRECTOR OR AUTHORISED REPRESENTATIVE OF RESPONDENT

I, \_\_\_\_\_ of \_\_\_\_\_

**DO SOLEMNLY AND SINCERELY DECLARE** that:

#### 1. DEFINITIONS

---

In this Statutory Declaration

**Contract** means the Registry Licence Agreement that the RFT to which this Statutory Declaration is a schedule pertains.

**Industry Association** means any organisation of which the Respondent or employees of the Respondent are members.

**Relevant Interest** means any relevant interest (as that term is defined in the *Corporations Act 2001* (Cth) in the securities of an organisation.

**Registrar** has the meaning given in the RFT to which this Statutory Declaration is a schedule pertains.

**Respondent** means: \_\_\_\_\_ *(Insert Name of Tenderer)*

#### 2. INTRODUCTION

---

2.1 I hold the position of \_\_\_\_\_ (Title/position) of the Respondent and am duly authorised by the Respondent to make this declaration on its behalf.

2.2 I make this declaration on behalf of the Respondent and on behalf of myself.

#### 3. NO KNOWLEDGE OF TENDER PRICES

---

Prior to the Respondent submitting its tender for the Contract, neither the Respondent, nor any of its employees or agents, had knowledge of the price or any other terms of the tender of:

3.1 any other respondents who submitted a tender for the Contract; or

3.2 any other person, company, body corporate or firm that proposed to submit a tender for the Contract.

#### **4. PROVISION OF INFORMATION**

---

Neither the Respondent, nor any of its employees or agents, has provided information to:

- 4.1 any other respondents who have submitted a tender for the Contract; or
- 4.2 any other person, company, other body corporate or firm,
- 4.3 for the purpose of assisting in the preparation of a tender for the Contract.

#### **5. GENUINE COMPETITION**

---

The Respondent is genuinely competing for the Contract.

#### **6. INDUSTRY ASSOCIATION AGREEMENTS**

---

Neither the Respondent, nor any of its employees or agents, has entered into any contract, agreement, arrangement or understanding, other than as disclosed to auDA in the Respondent's tender, that the successful respondent for the Contract will pay any money to, or provide any other benefit or other financial advantage to, an Industry Association in respect of the Contract.

#### **7. AGREEMENT WITH REGISTRARS**

---

Neither the Respondent, nor any of its employees or agents, has entered into any contract, agreement, arrangement or understanding with any board member of auDA or any other member of the Evaluation Panel, in connection with the transfer, or proposed transfer of any trade, business or undertaking as a Registrar, or any Relevant Interest in any Registrar, to that member, in the event that the Respondent is awarded the Contract.

#### **8. UNSUCCESSFUL RESPONDENTS' FEES**

---

Neither the Respondent, nor any of its employees or agents, has entered into any contract, agreement, arrangement or understanding that the successful respondent for the Contract will pay any money to, or provide any other benefit or other financial advantage to, any other respondent who or which unsuccessfully tendered for the Contract.

#### **9. QUALIFICATIONS TO TENDERS**

---

Neither the Respondent, nor any of its employees or agents, has entered into any contract, agreement, arrangement or understanding with any other respondents that respondents would include an identical or similar condition or qualification in their tenders for the Contract.

#### **10. CONFLICT OF INTEREST**

---

Neither the Respondent, nor any of its employees or agents has a potential or actual conflict of interest between performing the Contract and any other interests.

**I ACKNOWLEDGE** that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

**DECLARED** at \_\_\_\_\_ (*Place*) in the State )  
of \_\_\_\_\_ (*State/Territory*) on )  
\_\_\_\_\_ 2006 )  
)  
)

**BEFORE ME:**

**Signature:** \_\_\_\_\_

**Full Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Qualifications:** \_\_\_\_\_

[insert details of basis on which entitled to witness a Statutory Declaration under section 107A(1) of the *Evidence Act* 1958.]

# Schedule 6 – Confidentiality Undertakings

---

## CONFIDENTIALITY UNDERTAKINGS BY DIRECTOR OR AUTHORISED REPRESENTATIVE OF RESPONDENT

THIS DEED POLL is made on \_\_\_\_\_ (Date)

BY

\_\_\_\_\_ (Name of Director)

of \_\_\_\_\_ (Address)

IN FAVOUR OF

**.au DOMAIN ADMINISTRATION LIMITED ACN 079 009 340**

**(auDA)**

### OPERATIVE PROVISIONS

#### 1. DEFINITIONS

---

In this document:

**Confidential Information** means any information which may be provided by auDA to me or to the Respondent, or which may arise from discussions or negotiations between auDA and the Respondent, in connection with:

- (a) the RFT (as defined in the attached documents, to which this document is a Schedule);  
or
- (b) the Respondent's tender in response to the RFT,

which is not otherwise available in the public domain other than through a breach of the terms of this document.

**Respondent** means \_\_\_\_\_ (Name of tender Respondent)

#### 2. INTRODUCTION

---

2.1 I hold the position of \_\_\_\_\_ (Title/Position) of the Respondent and am duly authorised by the Respondent to give the undertakings contained in this document on its behalf.

2.2 I make this declaration on behalf of the Respondent and on behalf of myself.

**3. UNDERTAKINGS**

---

3.1 I undertake not to disclose or grant access to the Confidential Information, to any person without the prior written consent of auDA which auDA may grant or withhold in its absolute and unfettered discretion on any conditions it thinks fit.

3.2 I undertake to comply with those conditions.

**4. INJUNCTIONS AND DAMAGES**

---

4.1 I acknowledge that, if there is a breach or a threatened breach of the terms of this document, the injury which will be suffered by auDA is of a character which cannot be fully compensated for solely by a recovery of monetary damages.

4.2 I agree that if I breach or if there is a threat of a breach of the terms of this document, then in addition to any damages which may be suffered by auDA and any other remedies which auDA may pursue under this document or under any applicable law, auDA will be entitled to equitable relief, including the issue of a temporary or permanent injunction, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damage or posting of any bond or other surety.

**5. NO EXCLUSION OF LAW OR EQUITY**

---

This document must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

**EXECUTED** as a deed poll.

**SIGNED SEALED AND DELIVERED** by \_\_\_\_\_ )  
\_\_\_\_\_ in the )  
presence of: ) .....

.....  
Witness