**Ministry of Health**

**Request for Proposal**

**National Telehealth Service**

**Part 1 - Outline and Instructions**

**Date RFP Issued: Monday, 12 January 2015**



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**RFP Overview**

This RFP is comprised of three documents:

* **Part 1** – this document outlines the RFP process and our requirements as well as our Instructions to Suppliers and Standard RFP Conditions
* **Part 2** – Supplier Response to the RFP
* **Part 3** – Supplier’s Price Response to the RFP

The Ministry of Health (the Ministry) is seeking to develop and purchase an enhanced integrated National Telehealth Service (NTS) to provide both unplanned care and counselling services through a multi-channel approach, including: telephone triage and phone advice; text; email; phone applications; social media and web-based services. This will allow a person to receive prompt triage, health advice, support, package of counselling care; information and sign-posting to appropriate services and care. These services are of significant value to our most vulnerable populations, and services must be culturally sensitive and appropriate to community needs.

The aim is to enhance the NTS to improve: (1) integration into the wider health service to facilitate public access and reduce pressure on after-hours services (primary care, ambulance and hospital emergency departments) by making good use of local health and injury services across the country; and (2) integration into a comprehensive telehealth advice service that enables better support for clients.

The following diagram provides an overview of the procurement process for the NTS.



**Phase 1:** The purpose of the ROI was to identify a shortlist of capable suppliers. Proposals were put through a rigorous evaluation methodology to ensure the right shortlist of capable, committed Suppliers was identified.

**Phase 2:** The main objectives of this phase were:

1. Sessions with Shortlisted Suppliers to ensure requirements are understood.
2. Structured dialogue with Shortlisted Suppliers that allow the development of the NTS design and indicative contract (between the Ministry and the Successful Supplier) for the closed RFP.
3. Provide a smooth transition from RFP to contract signing with an associated reduced timeframe for contract negotiation.

**Phase 3:** Closed RFP will be developed and released for a response by Shortlisted Suppliers. The responses received will be assessed (if applicable) and the preferred supplier will advance to Phase 4.

**Phase 4**: Due diligence will be completed by the Ministry. Components of this process may be done prior to Phase 3 if required.

**Phase 5:** Agreement of contractual terms and contract signing between the Ministry and the Successful Supplier.

**Phase 6:** The Ministry will, where applicable, work with the Successful Supplier to implement the agreed model and transition services to the NTS. The Successful Supplier will be required to work with existing providers (where applicable) to ensure the smooth transition of services.

**RFP Evaluation Criteria and Weighting Factors**

## Mandatory Criteria

|  |  |  |
| --- | --- | --- |
| Criteria | Description of Criteria |  |
| 1 | The Supplier accepts the proposed Contract, or completes the summary of non-acceptance in Part 2, Section D. | Yes/No |
| 2 | The Supplier will provide or lead the provision of all components of the NTS and assume contractual responsibility/liability for end to end service delivery. | Yes/No |
| 3 | Supplier has no conflicts of interest or any conflicts of interest are able to be managed appropriately. | Yes/No |

## Weighted Criteria

|  |  |  |
| --- | --- | --- |
| Criteria | Description of Criteria | Weighting |
| Methodology | How you propose to deliver the NTS and ensure it is embedded as a key component of the health system. | 35% |
| Capability & Capacity | Your ability to deliver the NTS. | 25% |
| Cultural Alignment | How you will align your culture with the principles, strategy and goals of the Ministry for the NTS. | 10% |
| Transition, Implementation & Risk Management | How you will establish and embed the NTS as a key component of the Health Sector. | 30% |
|  | Total | 100% |

## Our Approach to Evaluating Proposals

The Evaluation Panel will be made up of a broad cross sector representation which will include the Ministry, ACC, HPA and consumer representation.

Our approach to evaluation of Supplier Proposals will include:

* The Evaluation Panel members individually scoring proposals against weighted evaluation criteria (as outlined in the table above) using a 0-4 rating scale to guide their scoring. The rating scale is provided below in the Evaluation Methodology section of this document.
* Evaluation Panel members meeting to moderate the scores and reach a consensus for each Supplier Proposal.
* Pricing information will be evaluated separately after the non-price criteria have been scored. Overall the evaluation will assess Proposals on the basis of delivering best value for money (which is not always the cheapest price).
* The Evaluation Panel will then make a recommendation to the Senior Responsible Officer (SRO). The SRO is accountable for the final decision based upon the recommendation by the Evaluation Panel.

## Evaluation Methodology

|  |  |
| --- | --- |
| **Score** | **Description** |
| **4** | **EXCELLENT**: Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full. |
| **3** | **GOOD**: Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements will be fulfilled. |
| **2** | **ACCEPTABLE**: Response is relevant and acceptable. The response addresses a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas. |
| **1** | **POOR**: Response is partially relevant but generally poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled. |
| **0** | **UNACCEPTABLE**: Nil or inadequate response. Fails to demonstrate an ability to meet the requirement. |

Once the non-price criteria are assessed, the following ratios are determined:

1. Value Added Ratio (VAR) = lowest tendered price / price of bid under consideration
2. Final Score = VAR x Weighted Score

## RFP Closing Date

Responses to this RFP must be returned via email to [telehealth@moh.govt.nz](mailto:telehealth@moh.govt.nz) before the Closing Date which is:

**18 February 2015 at 2pm**

## Clarification Period (Questions and Answers)

The clarification period opens **Tuesday, 13 January 2015 and closes 2pm Friday, 11 February 2015.**

The Ministry will endeavour to respond to queries within reasonable timeframes and will publish any responses that affect all Suppliers via email.

## The Rules

The procurement process for this RFP is governed by a set of rules called Instructions to Suppliers & Standard RFP Conditions specified below in Part 1 of this RFP.

## Offer Validity Period

The Offer Validity Period for Supplier Proposals and pricing to remain open is 180 working days from the Closing Date.

## Additional RFP Processes

* Reference checks
* Due diligence checks – analysis of financial records and company checks and any other information collected about the Supplier.

**The Context to this RFP**

## A Bit about Us

The [Ministry of Health](http://www.health.govt.nz/) works across the health sector to deliver better health outcomes for New Zealanders. The Ministry leads New Zealand’s health and disability system, and has overall responsibility for the management and development of that system.

The Ministry’s regulatory responsibilities within the health and disability system include administering legislation and associated regulations.

The Ministry is comprised of business units, each with its own functions and areas of responsibility. These include the National Health Board, the Office of the Chief Nurse and the Policy, Clinical Leadership, Protection and Regulation, Māori Health, Sector Capability and Implementation and Corporate Services business units.

## Background

Telehealth services are telephone and web-based services that allow a person in the community or at home to receive prompt triage, care, health advice and information. New Zealand currently has a number of individual telehealth services that handle around two million contacts per year. Internationally, advances in technology and a desire to improve value-for-money has led to countries similar to New Zealand consolidating their telehealth services to improve efficiency, enhance services and improve outcomes for service users.

As part of the 2011 Election manifesto, the Government made a commitment to roll out a comprehensive after-hours telephone advice service with access to nurses, general practitioners and pharmacists; and investigate integrating this care with ambulance service paramedics. In July 2013, Cabinet (CAB Min (13) 22/4) agreed to develop a NTS that will provide an improved frontline telehealth service for the public through a market contestable process.

The Ministry has identified an opportunity to improve the efficiency and effectiveness of existing telehealth services. The Ministry believes that a NTS integrated into the New Zealand Healthcare System will be able to offer more effective, person-centric services that will improve the quality of care provided by telehealth services to service users. A NTS will also offer significant advantages in terms of better integration with other healthcare services, and ambulance call centres as well as allowing the Ministry to better understand, monitor and respond to changing demands for clinical and counselling or helpline services. It is also likely that a NTS will provide better value-for-money resulting from efficiencies through the consolidation of the various back-office functions, infrastructure costs and better utilisation of personnel.

The Ministry will be the sole purchaser of NTS. Please note, the Ministry is currently in discussions with the Health Promotion Agency and ACC with regard to the NTS and opportunities for the Health Promotion Agency and ACC. These formative discussions will continue and conclude in early 2015.

ACC has identified an opportunity to work with the Ministry to reduce building pressure on urgent and unplanned care services through an integrated NTS. A NTS will help injured New Zealanders receive appropriate assessment, referrals and timely treatment at an earlier stage of their injury. The NTS will also promote some injury prevention messages.

The Ministry has worked closely alongside Shortlisted Suppliers during Phase 2 of the procurement process to co-develop details of how the NTS should operate and evolve over time to meet the investment objectives. This approach was chosen so that Shortlisted Suppliers would not be limited by pre-existing service specifications and to enable the Ministry to seek overall best value for money, innovation in the way the services are to be delivered and identify/reduce possible delivery and/or implementation risks. It also means that Suppliers have an opportunity to innovate to best meet the needs of service users (and the Ministry) now and in the future.

The Ministry has run this procurement process in accordance with the principles of good procurement and the Government Rules of Sourcing. To ensure that this process has been robust, fair and transparent the Ministry has engaged the services of external probity assurance experts.

The procurement approach followed to date is outlined below.

**Request for Information October 2013 to January 2014**

In October 2013, the Ministry released a request for information (RFI) on the Government Electronic Tender Service (GETS) to gain a better understanding of the capability and capacity of potential suppliers to deliver a NTS. The Ministry received 32 responses and later met with 19 respondents at one-on-one briefings.

**Registration of Interest April 2014 to July 2014**

On 9 May 2014, the Ministry released an ROI to determine which suppliers should be shortlisted to participate in planned formal dialogue sessions. The Ministry evaluated the responses and selected three suppliers to proceed to the pre-RFP dialogue stage.

**Pre Request for Proposal Dialogue August 2014 to November 2014**

The Ministry’s three Shortlisted Suppliers that attended pre-RFP dialogue sessions were:

• Homecare Medical Limited

• Lifeline New Zealand Aotearoa Inc.

• Medibank Health Solutions Ltd

The Ministry hosted three pre-RFP dialogue sessions per supplier to discuss and collaboratively develop the NTS specifications.

## Our Requirements

Our requirements are specified in Part 1, Schedule 1 – Service Expectations. Schedule 1 details what we are seeking to achieve from the NTS and not necessarily how services will be delivered. It is anticipated that the detailed service requirements will be agreed between the Ministry and the Successful Supplier during Phase 5 of the Project and recorded in Schedule 2 of the Contract (service specifications). The service requirements will be based on the Service Expectations detailed in Schedule 1.

In addition to the service specifications, the Successful Supplier will work with the Ministry to produce an annual plan for each year of the Contract using an agreed process. The annual plan will set out the Successful Supplier’s plans and aspirations for the Services in the future and include a detailed work plan for the following year. The annual plan will form part of the Contract.

It is anticipated that there will be an agreed process by which the parties can work together to address issues and make any necessary amendments to the requirements throughout the term of the Contract.

## Contract Term

We anticipate that the Contract will commence on 1 May 2015. The anticipated Contract term and options to extend are listed in the table below:

|  |  |
| --- | --- |
| **Description** | **Years** |
| Initial term of the Contract | Six (6) |
| Options to extend the Contract (at the Ministry’s option only) | Two extensions of two years each (2+2) |
| Maximum term of the Contract | Ten (10) |

## Key Deliverables

We anticipate that the Contract will commence on 1 May 2015, with service commencing on 1 November 2015.

Intellectual property will be a key element of the Service. New Intellectual Property arising as a result of the Contract will be the property of the Ministry. Existing Intellectual Property of the Successful Supplier that is incorporated into the core elements of the Service will need to be able to be transitioned to a new provider at the end of the contract term (if the Successful Supplier is not re-awarded the contract at this time). Where you have existing Intellectual Property that you are not willing to transition to a new provider, the Ministry expects that the price of your Proposal will be reduced accordingly. Any such Intellectual Property and associated reduction in price should be identified in your Proposal.

## Other Tender Documents

In addition to this RFP we refer to the following documents. These have been attached as Schedules and form part of this RFP.

* Schedule 1 – Service Expectations
* Schedule 2 – Our Proposed Agreement for Services
* Schedule 3 – Future service volumes predictions spreadsheet

**Our Proposed Conditions of Contract**

The proposed Contract is attached as Schedule 2 of this document.

**Next Steps**

If, having read our RFP, you are interested in submitting a Proposal this document sets out the next steps in the process.

|  |
| --- |
| **Understand our Requirements**  Make sure you fully read this document and the **Instructions to Suppliers & Standard RFP Conditions** before starting to prepare your Proposal. In particular develop a strong understanding of our Requirements and how your Proposal will be evaluated. If anything is unclear or you have any questions then ask us to explain. Email our Contact Person. |
| **Our Process**  This is a contestable and competitive tender. We have set out a step-by-step process for Suppliers to follow as well as some rules. Make sure you follow our process and abide by the rules. Remember, it is important when preparing your Proposal to use the **Supplier Response Form (Part 2)** and complete the Supplier Declaration. |
| **Changes to our Process**  If we need to change anything about this process or want to provide Suppliers with additional information we will notify all Suppliers. |
| **Our Contact Person**  Please direct all enquiries to our Contact Person. You must not attempt to gain information from any other member of our staff.  **Clayton Cleary**  Senior Procurement Specialist  Telephone: (04) 816 3668  Procurement and Contracts Email: telehealth@moh.govt.nz  No.1 The Terrace  PO Box 5013  Wellington 6145  New Zealand  (04) 496 2000 |
| **Our Email Address for Proposals**  Proposals must be submitted by email (no more than 7MB) to the following address:  [telehealth@moh.govt.nz](mailto:telehealth@moh.govt.nz)  We can accept documents in the following standard formats .doc, .docx, .xls, .xlsx or .pdf.  **Please note:** Proposals sent by post or fax will not be accepted.  Make sure that you include the RFP title in your email. If you do not get a response to confirm receipt of your email you should assume that we have not received it. |
| **Our Indicative Timeline**  The following information sets out our process and Indicative Timeline.   |  |  | | --- | --- | | Deadline for Suppliers’ questions (Clarification Period): | 2pm, 11 February 2015 | | **Deadline for Proposals (Closing Date):** | **2pm, 18 February 2015** | | Supplier selected & unsuccessful Suppliers notified: | March 2015 | | Supplier debriefs: | April 2015 | | Anticipated Contract start date: | 1 May 2015 |   **Please note:** All times are New Zealand time. We reserve the right to alter the timeline, if required. |
| **Interpreting this RFP**  Words starting with capital letters can have special meaning. The **Instructions to Suppliers and Standard RFP Conditions** contains definitions for words and expressions that have special meanings. |
| **Tools**  Here are some tools that may help you in preparing your Proposal.   * [A guide to Supplying New Zealand Government](http://www.business.govt.nz/procurement/pdf-library/suppliers/How%20to%20Supply%20NZ%20Government.pdf) * [Procurement Jargon Buster](http://www.business.govt.nz/procurement/pdf-library/agencies/guides-and-tools/jargon-buster.pdf) * [How to feedback and complain](http://www.business.govt.nz/procurement/pdf-library/suppliers/Guide%20to%20supplier%20feedback.pdf) |

**Instructions to Suppliers and Standard RFP Conditions**

This section contains instructions for Suppliers interested in submitting a Proposal in response to this RFP. It also sets out the standard conditions that apply to the RFP process.

## Definitions

The following words and expressions (where they appear in the RFP-Part 1, RFP-Part 2, RFP-Part 3 and any Schedule) have the meanings described below.

|  |  |
| --- | --- |
| **Business Day** | A day when most businesses are open for business in New Zealand. It excludes Saturday, Sunday and public holidays. |
| **Business Hours** | Business hours means the period from 8.30am to 5.00pm on any Business Day. |
| **Buyer** | The Buyer is the organisation that has issued the RFP with the intent to purchase the goods or services described in the Requirements. |
| **Clarification Period** | The period within which a Supplier can ask for clarification or additional information from the Buyer in relation to the RFP as specified in Part 1 of the RFP. |
| **Closing Date** | The deadline for Proposals to be received by the Buyer as specified in Part 1 of the RFP. |
| **Competitors** | Any other business that is in competition with a Supplier either in relation to the goods or services sought under the RFP or in general. |
| **Confidential Information** | Information that:   1. is by its nature confidential 2. is marked by either the Buyer or a Supplier with ‘Confidential’, ‘Commercially Sensitive’ or similar wording 3. is stated at the time of provision as being provided by the Buyer, a Supplier, or a third party ‘In Confidence’ 4. the Buyer or a Supplier knows, or ought to know, is confidential 5. is of a sensitive nature, or commercially sensitive to the Buyer, a Supplier or a third party. |
| **Conflict of Interest** | A Conflict of Interest arises if a Supplier’s personal or business interests or obligations do, or could be perceived to, conflict with its obligations to the Buyer under the RFP or in the anticipated provision of the goods or services. It means that the Supplier’s independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:   * + 1. actual: where the conflict currently exists     2. potential: where the conflict is about to happen or could happen, or     3. perceived: where other people may reasonably think that a person is compromised. |
| **Contact Person** | The person who is the single point of contact for all communications during the RFP process and negotiations. The Buyer’s Contact Person is identified in Part 1. The Supplier’s Contact Person is identified in its Proposal. |
| **Contract** | The legally enforceable written contract for the supply of the goods or services entered into between the successful Supplier and the Buyer based on the Proposed Conditions of Contract (as negotiated between the parties) and arising as a result of this RFP. |
| **Evaluation Methodology** | The methodology set out in Part 1 and used by the Buyer to evaluate Proposals. |
| **Evaluation Panel** | The panel established in accordance with clause 24 to assess Proposals and provide a recommendation to the SRO. |
| **GST** | The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985. |
| **Intellectual Property** | All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law. |
| **Joint Proposal** | A Proposal submitted on behalf of more than one Supplier in accordance with clauses 11 to 16 of these Instructions to Suppliers and Standard RFP Conditions. |
| **Offer Validity Period** | The period of time when the Supplier’s offer to provide goods and services to the Buyer as described in the Proposal is held open for acceptance by the Buyer. The Offer Validity Period is stated in Part 1. |
| **Preferred Supplier** | Following the evaluation of Proposals the Supplier(s) who has/have been identified overall as the Preferred Supplier by the Buyer after having considered the recommendation of the Evaluation Panel. |
| **Proposal** | The response a Supplier submits in reply to the RFP. It comprises the Supplier’s tender bid and should include all information specified by the Buyer in the RFP. |
| **Proposed Conditions of Contract** | The contract terms and conditions proposed by the Buyer and attached as Schedule 2 to the RFP. |
| **Representative of the Buyer** | A person who represents the Buyer. This can be a member of staff, contractor, consultant, advisor, agent, or secondee. |
| **Request for Proposal (RFP)** | The RFP comprises Part 1, Part 2, Part 3, and any other Schedule attached by the Buyer. |
| **Requirements** | The goods and/or services described in the RFP Part 1 and detailed in Schedule 1 – Service Expectations. |
| **Schedule** | Any attachment to the RFP with the title ‘Schedule’. |
| **SRO** | The Senior Responsible Officer, appointed by the Ministry of Health. |
| **Successful Supplier** | Following the evaluation of Proposals and successful negotiations the Supplier/s who is awarded the Contract. |
| **Supplier** | A person, organisation, business or other entity that submits a Proposal in response to the RFP, or is a party to a Joint Proposal. A reference to a Supplier includes that Supplier’s contractors, employees, agents, subcontractors, successors and permitted assignees of that person, organisation or business. |
| **$** | Unless otherwise stated all currency is in New Zealand dollars. |

## Preparing a Proposal

1. Suppliers must provide in their Proposal all information requested by the Buyer in the RFP by the Closing Date. The information must be supplied in the format specified by the Buyer.
2. Failure to provide all information requested or in the correct format by the Closing Date may result in the Proposal being rejected as non-conforming.
3. If asked to provide hard copies please print Proposals double-sided and minimise the use of non-recyclable or non-reusable materials.

**Language and Price**

1. Proposals must be in English. Prices are to be quoted in New Zealand dollars exclusive of goods and services tax (GST) unless otherwise stated.

**Offer Validity Period**

1. Proposals shall remain valid and open for acceptance by the Buyer for the Offer Validity Period stated in Part 1.

**Clarification Period**

1. Each Supplier must satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP documents, Suppliers should seek clarification before the end of the Clarification Period.
2. All requests for clarification must be made by email to the Buyer’s Contact Person. Please allow a reasonable period of time for the Buyer to respond to a request. Requests will be dealt with by the Buyer during Business Hours.
3. The Buyer will not be required to answer questions submitted after the Clarification Period ends, although it reserves the right to do so.
4. If the Buyer considers a request to be relevant to all Suppliers it may provide details of the question and answer to other Suppliers. In deciding whether or not to publish the question and answer the Buyer will take into account the risk of disclosing information which may be commercially sensitive to the Supplier making the request.
5. If a Supplier identifies an inaccuracy or inconsistency in the RFP it must notify the Buyer as soon as possible.

**Joint Proposals**

1. Suppliers may submit Joint Proposals, so long as the requirements of the RFP are met. If the RFP is preceded by a qualification process (for example shortlisting of Suppliers from a Registration of Interest) all parties to the Joint Proposal must have met the qualification.
2. Any Joint Proposal must:
3. identify all of the parties to the Proposal
4. state the nature of the relationship between the parties for the purpose of the Joint Proposal
5. confirm that all parties are committed to the relationship and the Joint Proposal
6. specify the parts of the Requirements each party will be responsible for delivering
7. identify the structure and systems that support joint governance, accountability and financial and contract management
8. be signed by all parties.
9. In evaluating a Joint Proposal the Buyer may take into account, in its evaluation, any complexity or risk presented by a Joint Proposal.
10. Suppliers submitting Joint Proposals are required to identify only one Contact Person who will represent all parties to the Joint Proposal. Each Supplier to the Joint Proposal must complete a Supplier’s Declaration.
11. A Joint Proposal must be a genuine joint venture or consortium with the provision of the goods or services to be provided on a joint and fully integrated basis. A Joint Proposal is not to be used as a cover for price fixing or other anti-competitive behaviour between Competitors.
12. If a Joint Proposal is successful each party to the Joint Proposal will be jointly and severally liable for the provision of the goods or services to meet the Requirements and the contract between the Buyer and the joint Suppliers will include a clause to this effect.

## Submitting a Proposal

1. Proposals must be received by the Buyer before the Closing Date.
2. The Buyer accepts no responsibility for a Proposal that is delivered to the wrong email address or, for whatever reason, is not received by the Buyer.
3. The Buyer will acknowledge receipt of each Proposal by email.
4. By submitting a Proposal each Supplier warrants that all information provided is complete and accurate in all material respects. If the Supplier becomes aware of any errors or inaccuracies in the Proposal after submitting the Proposal it will notify the Buyer immediately.
5. The Supplier warrants that its Proposal, and any use of the Proposal by the Buyer for the purposes of the RFP process, will not breach any third party Intellectual Property rights.
6. If the Buyer stipulates a two envelope process the following applies:
7. Each Supplier must ensure that all pricing components of their Proposal are provided separately from the remainder of their Proposal.
8. All information relating to pricing must be contained as a separate soft copy file.
9. The pricing information must be clearly marked ‘Pricing Proposal’ to indicate that it contains the pricing information. This is to ensure that the pricing information cannot be viewed when the package containing the other elements of the Proposal is opened.

**Late Proposals**

1. The Buyer reserves the right to accept a late Proposal in exceptional circumstances where it considers that there is no material prejudice to other Suppliers. However, the Buyer will not accept a late Proposal if it considers that:
2. there is any risk of collusion on the part of a Supplier or Suppliers
3. the Supplier may have knowledge of the content of any other Proposal, or
4. it would be unfair to any other Supplier to accept the late Proposal.

## Evaluation of Proposals

**Evaluation**

1. The Buyer will convene an evaluation panel comprising members chosen for their relevant expertise and experience. The Buyer may, at its sole discretion, invite independent advisors to evaluate any Proposal, or any aspect of any Proposal. Suppliers must not communicate with any member of the evaluation panel or any independent advisors, other than as advised by the Buyer’s Contact Person.
2. The Buyer will evaluate each Proposal in accordance with the Evaluation Methodology set out in this RFP.
3. The Buyer may undertake due diligence relating to any Proposal at any time during the evaluation process.
4. Suppliers should note that while the Buyer may conduct interviews, site visits and reference checks it intends to base its evaluation primarily on the written Proposal submitted in response to the RFP. Suppliers are therefore encouraged to submit their best and unconditional Proposals in the first instance.

**Clarification**

1. The Buyer may request clarification and additional information from any Supplier about any aspect of a Proposal. The Buyer is not required to request the same clarification or information from each Supplier.
2. The Supplier must provide the clarification or additional information in writing and within the time notified by the Buyer. The Evaluation Panel may take such clarification or additional information into account in evaluating the Proposal.
3. If a Supplier fails to respond adequately or within the time stipulated by the Buyer to any request for clarification or additional information, the Buyer may cease evaluating the Supplier’s Proposal.

**Collection of Further Information**

1. Each Supplier authorises the Buyer to collect further information (except commercially sensitive pricing information) from any relevant third parties (such as a referee or a previous or existing client) and to use that information as part of its evaluation of the Supplier’s Proposal.
2. Each Supplier must ensure that all referees provided in support of its Proposal agree to provide a reference and are appropriately briefed on the Proposal.
3. To facilitate discussions between the Buyer and third parties each Supplier waives any confidentiality obligations that would otherwise apply to information held by any third party, with the exception of commercially sensitive pricing information.
4. The Buyer reserves the ability to adjust its evaluation and scoring of a Supplier’s Proposal following the collection of further information.

**Negotiations**

1. The Buyer may select one or more Preferred Suppliers to enter into negotiations with a view to entering into the Contract. The selection of the Successful Supplier will be influenced by the willingness of the Supplier to negotiate any outstanding issues in a responsive and co-operative manner.
2. The Buyer may discontinue negotiations with the Preferred Supplier at any time for any reason and may enter into negotiations and/or contract with any other Supplier at any time.

**Successful Supplier**

1. On successfully completing negotiations and signing a contract the Buyer will inform all other Suppliers of the outcome and the name of the Successful Supplier, if any.

**Supplier Debrief**

1. Following the award of Contract, the Buyer will offer a debrief to all Suppliers. The debrief may be provided by letter, email, phone or face to face meeting. The debrief will aim to:
2. provide the reasons why a Proposal was not successful
3. explain how the Proposal performed against the evaluation criteria
4. indicate the relative advantages/strengths of the successful Proposal
5. answer any concerns or questions from the Supplier
6. seek feedback from the Supplier on the RFP and the RFP process.

## General Terms and Conditions

**Buyer’s Terms**

1. The RFP comprises Part 1, Part 2, Part 3 and any other Schedules attached by the Buyer. The RFP sets out the Buyer’s terms upon which Suppliers may submit Proposals. These terms are non-negotiable.
2. Each Supplier should carefully read the RFP to ensure that its Proposal complies with the Buyer’s terms. By submitting a Proposal the Supplier accepts that it is bound, without reservation or variation, by the terms set out in the RFP.
3. The Buyer is not required to accept any Proposal for evaluation that does not comply with these terms.

**Suppliers’ Obligations**

1. Each Supplier warrants that it has:
2. examined the RFP and any documents referenced in the RFP and any other information provided by the Buyer
3. considered all the risks, contingencies and other circumstances relating to the delivery of the goods or services and included adequate provision in its Proposal to manage such risks and contingencies
4. documented in its Proposal any assumptions made in the preparation of the Proposal
5. satisfied itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing and delivery of the Requirements.

**Reliance on the Proposal**

1. Each Supplier must ensure that all information provided to the Buyer is complete and accurate. The Buyer may rely upon all information provided by a Supplier in its Proposal and in any correspondence or negotiations with the Buyer, or a Representative of the buyer.

**Indicative Timeline**

1. The Indicative Timeline for the RFP process is stated in Part 1. Please note that these dates and times may be changed at the sole discretion of the Buyer. The Buyer will notify Suppliers of any material changes to these dates or times.

**Buyer’s Contact Person**

1. All enquiries regarding the RFP must be directed to the Buyer’s Contact Person, whose details are provided in Part 1. The Buyer requests that email be used for all communications in relation to the RFP.
2. Only the Contact Person, and any person authorised by the Contact Person, are authorised to communicate with Suppliers regarding any aspect of the RFP.
3. The Buyer will not be bound by any written or oral statement made by any person, other than the Contact Person.
4. The Buyer may change the Contact Person at any time. The Buyer will notify Suppliers of any such change.
5. Where a Supplier has an existing contract with the Buyer then business as usual communication, for the purpose of that contract, will continue using the usual contacts. Suppliers must not use business as usual contacts to lobby the Buyer, solicit information or discuss aspects of the RFP.

**Conflict of Interest**

1. Each Supplier must include a Conflict of Interest Declaration with its Proposal. Each Supplier must immediately inform the Buyer should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Supplier being disqualified from the RFP.

**Ethics**

1. Suppliers must direct all enquiries to the Buyer’s Contact Person. Suppliers must not directly or indirectly approach, contact, lobby or solicit information concerning any aspect of the RFP from any other Representative of the Buyer or member of the Evaluation Panel.
2. Suppliers must not attempt to influence or provide any form of personal inducement, reward or benefit to any Representative of the Buyer or member of the Evaluation Panel.
3. Any Supplier who attempts to do anything prohibited by the above clauses 51 and 52 may be disqualified from the RFP.

**Anti-collusion / Bid Rigging**

1. In submitting its Proposal each Supplier warrants that its Proposal has not been prepared with consultation, communication, arrangement or understanding with any Competitor (unless for declared joint venture, consortium or sub-contracting purposes). Any Supplier who engages in collusive or anti-competitive behaviour may be disqualified from the RFP.
2. There is no expectation or obligation for Suppliers to submit Proposals in response to the RFP solely to remain on any prequalified or preferred supplier list. Any Supplier on such a list will not be penalised for failure to submit a Proposal.
3. Suppliers must indicate if they intend any person or organisation (who is not an employee, a party to a disclosed Joint Proposal or a disclosed sub-contractor) to deliver any part of the deliverables. That party’s details, the deliverables they will be responsible for and the price must be provided in the Proposal.
4. The Buyer reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Suppliers to the appropriate authority and to provide that authority with any relevant information including a Supplier’s Proposal.

**Confidentiality**

1. Subject to clause 63 the Buyer, and each Supplier, will keep confidential all Confidential Information provided by the other and no Confidential Information will be provided to a third party without the other’s prior written consent.
2. Where a Supplier’s Proposal contains information, such as Intellectual Property, that it considers should be held confidential, the Supplier must clearly identify the information and mark it confidential or commercially sensitive. The Supplier may be asked by the Buyer to indicate the reason why such information should be held as confidential.
3. Suppliers acknowledge that the Buyer’s obligations under the above clause are subject to the requirements imposed by the Official Information Act 1982, the Privacy Act 1993, parliamentary or constitutional convention and any other obligations imposed by the law. The Buyer’s obligation to keep the Supplier’s information confidential will not be breached if the information is disclosed by the Buyer to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour.
4. The Buyer and the Supplier may each disclose Confidential Information to any person who is directly involved in the RFP process on their behalf but only for the purposes of participation in the RFP. Any such disclosure may not be made unless the person has signed a confidentiality agreement on the same terms as those contained in this RFP.

**Proposal Costs**

1. Each Supplier must meet all of its own costs associated with the preparation and presentation of its Proposal and any negotiations.

**Ownership of Documents and Intellectual Property**

1. All documents forming the Proposal will, when delivered to the Buyer, become the property of the Buyer. Proposals will not be returned to Suppliers at the end of the process.
2. The Ministry may request the immediate return of any information supplied by the Ministry to the Participant, and any copies, at any time. The Participant must comply with any such request within the timeframes reasonably required by the Ministry.
3. Ownership of Intellectual Property rights in anything contained in either the RFP documents or the Proposal will remain vested in the party who owned the intellectual property prior to the RFP process. The Ministry will be the owner of any intellectual property rights in any new ideas, concepts, processes, documentation or materials developed or prepared (whether by the Ministry, by a Participant, or by the Ministry and a Participant jointly) during the RFP process.
4. The Supplier grants to the Buyer a non-exclusive, irrevocable, royalty-free and perpetual license to retain, use, disclose and copy information contained in the Proposal for any purpose related to the RFP process.

**No Binding Legal Relations**

1. Other than as expressly stated in this RFP, no contract or binding legal relations are created between the Buyer and the Supplier unless, and until, a written contract between the Buyer and the Successful Supplier is signed by both parties.

**Form of Contract**

1. Subject to clause 72, each Supplier agrees that any legally binding contract entered into between the successful Supplier and the Buyer will be essentially in the form set out in Proposed Conditions of Contract in Part 1, Schedule 2.
2. A Supplier’s acceptance, or otherwise, of the Proposed Conditions of Contract set out in Part 1 is one of the criteria the Buyer will take into account when evaluating Proposals.
3. The Buyer reserves the right to amend the Proposed Conditions of Contract set out in Part 1 following negotiations with the Successful Supplier.

**Status of RFP**

1. The Buyer aims to demonstrate fair dealing and due process, and to act lawfully, fairly and reasonably in its interactions with Suppliers.
2. Neither the RFP nor the RFP process shall create any legal relationship between the Buyer and a Supplier. This RFP process does not give rise to a process contract.

**Buyer’s Rights**

1. In addition to any other Buyer’s rights described in the RFP and notwithstanding anything in the RFP to the contrary, the Buyer may at any time:
2. amend, suspend, re-issue or cancel the RFP, or any part of the RFP on notice to the Suppliers
3. change any date in the Indicative Timeline contained in Part 1 on the proviso that any material change is notified to Suppliers
4. delete, change or add to the Requirements contained in Part 1 on the proviso that any material change is notified to Suppliers
5. reject or accept any non-compliant Proposal on notice to the Supplier
6. reject or accept any alternative Proposal on notice to the Suppliers
7. enter into negotiations or a Contract with a Supplier whose Proposal is not the lowest priced or highest ranked/scored Proposal
8. waive any irregularities or non-conformities in the Proposal or the Supplier’s participation in the RFP process
9. not enter into negotiations or a Contract with any Supplier
10. exclude any Supplier from the RFP process where the Supplier has breached a term or condition of the RFP on notice to the Supplier
11. liaise or negotiate with any Supplier without disclosing this to, or doing the same with, any other Supplier
12. provide to or withhold from any Supplier information in relation to any questions arising in relation to the RFP.
13. deal separately with any divisible element/s of the Requirements or any Proposal, unless the Proposal specifically states that those elements must be taken collectively and/or
14. split the provision of the Requirements and enter into separate contracts with separate Suppliers.

**Public Statements**

1. Suppliers must not issue any public statement in relation to the RFP, or any subsequent contract awarded, without the prior written approval of the Buyer.

**New Zealand Law**

1. The laws of New Zealand shall govern the RFP and each Supplier agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process.

**Disclaimer**

1. While all reasonable care has been taken in compiling the RFP, the information and details are presented in good faith. No warranty (expressed or implied) is given by the Buyer as to the completeness or accuracy of the documents or information.
2. The Buyer and its agents or advisors will not be liable in contract, tort, equity, or in any other way whatsoever for any direct or indirect damage, loss or cost incurred by any other person in respect of the RFP process.

**Recap**

Just a quick recap of the next steps:

* Make sure you **understand** our requirements as well as the RFP process
* **Seek clarification** from us about anything you are unsure of in relation to requirements and process before the Clarification Period ends.
* **Complete your Proposal** response using the supplied template and following the instructions it contains.