Request for Quotes

(Standard Version)

Total Mobility Transport Operators

CON001240

RFQ released: 10.04.2024

Deadline for questions: 23.04.2024

Deadline for Quotes: 2pm 03.05.2024

Bay of Plenty Regional Council  
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Contents

[This opportunity in a nutshell 2](#_Toc5876296)

[Section 1: Key information 3](#_Toc5876297)

[Section 2: Our requirements 6](#_Toc5876298)

[Section 3: Our evaluation approach 8](#_Toc5876299)

[Section 4: Pricing information 9](#_Toc5876300)

[Section 5: Our proposed contract 10](#_Toc5876301)

[Section 6: RFQ Process, Terms and Conditions 11](#_Toc5876302)

[Standard RFQ process 11](#_Toc5876303)

[Definitions 22](#_Toc5876304)

This opportunity in a nutshell

This Request for Quotes (RFQ) invites small passenger service operators to offer on-demand door-to-door services. These services are for the public, registered with and approved by the Council for Total Mobility Services.

What we need

Bay of Plenty Regional Council is looking for Passenger Transport Operators that can provide the Total Mobility Scheme 24/7.

They will need to meet the mandatory requirements set out in Section 2 of the separate RFQ Response Form attached.

What’s important to us?

We want Passenger Transport Operators who can deliver high-quality service consistently. It should offer value for money to Total Mobility Scheme members and Council.

A bit about us

Bay of Plenty Regional Council (also referred to as “the Buyer”) delivers services, facilities and projects following the direction set by elected members. The direction for staff to follow is outlined mainly in our statutory documents: the Long Term Plan and the Annual Plan. We report progress against these documents in our Annual Report. See more at www.boprc.govt.nz

1. Key information

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| F:\ICONS GMRFx\Icons_Location.png | * 1. Context  1. This Request for Quote (RFQ) is an invitation to suitably qualified suppliers to submit a Quote for the **Total Mobility Transport Operators** contract opportunity. 2. This RFQ is a single-step procurement process. 3. Words and phrases that have a special meaning are shown by the use of capitals. Definitions are at the end of [Section 6.](#S6_Definitions) |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Calandar.png | * 1. Our timeline  1. Here is our timeline for this RFQ.   **Steps in RFQ process:** **Date:**  Deadline for Questions from suppliers: 23.04.2024  Deadline for the Buyer to answer suppliers’ questions: 26.04.2024  Deadline for Quotes: **2 pm** 03.05.2024  Unsuccessful Respondents notified of  award of Contract: 17.05.2024  Respondents’ debriefs: week starting 20.05.2024  Anticipated Contract start date: 01.06.2024   1. All dates and times are dates and times in New Zealand. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Contact book.png | * 1. Communications  1. All enquiries must be directed to our point of contact specified in paragraph b below. We will manage all external communications through this point of contact. 2. **Our Point of Contact** 3. **Name:** Debbie Cooper 4. **Email address:** procurement@boprc.govt.nz 5. If, after publishing the RFQ, we need to change anything about the RFQ, or RFQ process, or want to provide suppliers with additional information, we will let all suppliers know by email. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Pencil.png | * 1. Developing and submitting your Quote  1. For helpful hints on tendering and access to a supplier resource centre go to: [www.procurement.govt.nz / for suppliers](http://www.business.govt.nz/procurement). 2. You must use the response form provided. 3. Emailed Quotes should not exceed 5MB. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Home.png | * 1. Address for submitting your Quote  1. Quotes must be submitted by email to the following address:   [procurement@boprc.govt.nz](mailto:procurement@boprc.govt.nz)  QUOTE – “CON001240 - TOTAL MOBILITY TRANSPORT OPERATORS”   1. Quotes sent by post or fax, or hard copy delivered to our office, will not be accepted. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Key.png | * 1. Our RFQ Process, Terms and Conditions   In submitting your Quote, you are deemed to have read, understood,  and agree to be bound by the following terms and conditions that apply to the RFQ and the RFQ process:   1. Your Quote will remain open for acceptance for two calendar months from the Deadline for Quotes, as stated this Section 1, paragraph 1.2. 2. You must bear all of your own costs in preparing and submitting your Quote. 3. The pricing information included in your Quote must meet all of the requirements set out in Section 4 of the RFQ. 4. You represent and warrant that all information provided to us is complete, true, and accurate, is not misleading in any material respect and does not breach any third party’s intellectual property rights. 5. We may rely upon all statements made in your Quote. 6. We may amend, suspend, cancel and/or re-issue the RFQ at any time. 7. We may amend the proposed contract included in Section 5 of the RFQ at any time, including during negotiations with suppliers. If you do not state your position in the response form provided in relation to the proposed contract, you are deemed to have accepted the terms and conditions in the proposed contract in full. 8. We are not bound to accept the lowest priced Quote, or any Quote. 9. In evaluating Quotes, we may consider the best value for money over the whole-of-life of the goods or services. 10. We may cease evaluating a Quote if it is determined that any mandatory requirement, as specified in Section 2, is not, or cannot be, met by you. 11. If none of the Quotes are acceptable to us we may enter into negotiations with one or more suppliers for a satisfactory offer. 12. We both agree to take reasonable steps to protect the other’s confidential information. 13. You acknowledge that our obligation to protect your confidential information is subject to the Local Government Official Information and Meetings Act 1987 and that we may be required to disclose your confidential information under this Act. 14. There is no binding legal relationship between us, except in respect of these RFQ terms and conditions unless and until we both enter into a contract or if we issue a purchase order to you. 15. The RFQ comprises this document, and any subsequent information we provide to suppliers. 16. The laws of New Zealand shall govern the RFQ and the RFQ process. 17. We 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 you or any other person in respect of the RFQ process. |
|  | * 1. Complaints regarding procurement procedures   We are committed to ensuring that our procurement processes represent good public sector procurement practice.  If you wish to raise a concern regarding this RFQ process, then the preferred point of contact is our Point of Contact, identified in Section 1, paragraph 1.3. If you are not satisfied with the manner in which the concerns are dealt with, or for any other reason, then you may contact:  Steven Slack – Risk and Audit - Bay of Plenty Regional Council  Steve.slack@boprc.govt.nz |

1. Our requirements
   1. What we require

The Total Mobility scheme helps people with mobility issues get subsidised door-to-door transport. It's funded by Waka Kotahi NZ Transport Agency and regional councils.

In the Bay of Plenty, more people need Total Mobility services due to regional growth. This RFQ is for small passenger service operators to provide on-demand door-to-door services. These services should be available to the public and approved by the Council for Total Mobility Services.

What we need:

* Good service at a fair price for customers and Council.
* More providers for safe and reliable door-to-door transport.
* Operators with accessible vehicles for wheelchair users.
* Helping Total Mobility clients in areas with limited service, like Whakatane and the eastern regions.

The following specific Mandatory Requirements must be met:

* **Insurance:**

Provide insurances as per the contract.

* **Health and Safety:**

H&S plans provided.

* **Payment Methods:**

Ensure all vehicles in the fleet have an EFTPOS terminal and SmartPay (or equivalent) electronic transaction management.

* **Compliance:**

Meet legal standards and requirements for a Transport Operator, including:

* + - Certificate of Fitness
    - Operator Licensing Rule 2017
    - Health & Safety at Work Act 2015
    - Land Transport Act 1998
    - Health and Disability Commissioner (Code of Health & Disability Services Consumer Rights) Regulations 1996
* **Wheelchair Accessible Vehicle:**

Have at least one wheelchair hoist accessible vehicle in the fleet.

* **Accreditation and Licensing:**

Maintain current service-specific accreditation and/or licensing throughout the contract for all named drivers, including:

* + - Operators must hold and maintain a small passenger service licence?
    - Drivers to have a full NZ First Aid certificate (complying with NZQA standards 6401 and 6402).
    - Drivers to have a full, current, New Zealand driver’s licence (class 1) with a valid passenger (P) endorsement.
* **Training and Development:**

Commitment to ongoing driver training.

* **Fleet Standards:**

Provide a fleet list, and ensure fleet vehicle ages align with the standards outlined in the contract.

Provision for replacement vehicles**.**

* **Operational Hours:**
  + Provide services 24/7.
* **Code of Conduct:**
  + Must provide Code of Conduct documents, specifically addressing Fraud, Disciplinary Procedure, and Complaints.
* **Experience:**
  + Passenger Transport industry experience. In the absence of specific industry experience, willingness to adhere to strict Council expectations while establishing mobility capabilities.

1. Our evaluation approach
   1. Evaluation method

We'll evaluate Response Forms by checking if suppliers meet all the Mandatory Requirements. Mandatory Requirements are non-negotiable things suppliers must have to be evaluated further. These requirements are listed in Section 2. They help us decide which suppliers we'll talk to about agreeing to a contract, including discussing prices. If a supplier does not meet one or more of the Mandatory Requirements, their Quote/Response will not be considered further.

Even though Price isn't something that suppliers will be scored against in this process, suppliers still need to tell us their prices in their Response Form. These prices should be fair compared to what's normal in the market.

After we select suppliers, we might check if their prices are fair. If not, we can talk about it. If we still can't agree on a fair price, we might not continue negotiating. Please see Sections 1.6(h) and 1.6(i) for further reference.

But it’s also important to mention that there are some other things about your Price that we might not be able to accept outright either. For example, we can't accept minimum fares. Also, there might be other limits that we'll tell you about if we see anything in your Price response that we can't accept.

We might also do some extra checks, called due diligence, as explained in Section 6.8. This helps us make sure we're making good decisions about the Quotes.

* 1. Evaluation criteria

We'll check Responses based on how good they are, using these criteria.

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| --- |
| **Criteria** |
| 1. Pass/Fail on all Mandatory Requirements |
| 2 Price negotiation |

1. Pricing information
   1. Pricing information to be provided by Respondents
2. You must use the pricing schedule template if provided in the Response Form.
3. The pricing schedule must show a breakdown of all costs, fees, and charges associated with the full delivery of the Requirements, as specified in Section 2, over the whole of the life of the contract. It must also clearly state the total contract price exclusive of GST.
4. Where the price, or part of the price, is based on fee rates, all rates must be specified.
5. In preparing your Quote you must consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in the Quote and pricing information to manage such risks and contingencies.
6. You must document in your Quote all assumptions and qualifications made about the delivery of the Requirements, as specified in Section 2, including in the financial pricing information. Any assumption that we, or a third party, will incur cost related to the delivery of the Requirements, as specified in Section 2, must be stated, and the cost estimated, if possible.
7. Prices should be tendered in NZ$. Unless otherwise agreed, we will arrange contractual payments in NZ$.
8. Our proposed contract
   1. Proposed contract

Attached as Appendix A is the proposed contract that we intend to use for the Requirements set out in Section 2.

It's important to know that we might propose a few tweaks to the contract after going through the RFQ process. Depending on your response, we may wish to adjust things like price, spending limit, or additional terms.

When you submit your Quote, let us know if you want to discuss or negotiate any terms in the proposed contract, or if you want to propose new ones. There's a section in the Response Form for you to do this. If you don't state your position, we'll assume you accept all the terms in the proposed contract.

1. RFQ Process, Terms and Conditions

Note to suppliers and Respondents

* In managing this procurement, the Buyer will endeavour to act fairly and reasonably in all of its dealings with interested suppliers and Respondents, and to follow due process which is open and transparent.
* This section contains the government’s standard RFQ Process, Terms and Conditions (shortened to RFQ-Terms) which apply to this procurement. Any variation to the RFQ-Terms will be recorded in Section 1, [paragraph 1.6](#S1_ProcessTermsConditions). Check to see if any changes have been made for this RFQ.
* Words and phrases that have a special meaning are shown by the use of capitals e.g., Respondent, which means ‘a person, organisation, business, or other entity that submits a Quote in response to the RFQ. The term Respondent includes its officers, employees, contractors, consultants, agents, and representatives. The term Respondent differs from a supplier, which is any other business in the marketplace that does not submit a Quote.[’ Definitions](#S6_Definitions) are at the end of this section.
* If you have any questions about the RFQ-Terms please email our [Point of Contact](#S1_Contact).

Standard RFQ process

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| F:\ICONS GMRFx\ICONS dark grey\Icons_Pencil.png | Preparing and submitting a Quote   * 1. Preparing a Quote  1. Respondents are to use the Response Form provided and include all information requested by the Buyer in relation to the RFQ. 2. By submitting a Quote, the Respondent accepts that it is bound by the RFQ Process, Terms and Conditions (RFQ-Terms) contained in Section 6 (as varied by Section1, paragraph 1.6, if applicable). 3. Each Respondent will: 4. examine the RFQ and any documents referenced in the RFQ, and any other information provided by the Buyer. 5. consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in its Quote to manage such risks and contingencies. 6. document in its Quote all assumptions and qualifications made about the delivery of the Requirements, including any assumption that the Buyer or a third party will deliver any aspect of the Requirements or incur any cost related to the delivery of the Requirements. 7. ensure that pricing information is quoted in NZ$ exclusive of GST. 8. if appropriate, obtain independent advice before submitting a Quote. 9. satisfy itself as to the correctness and sufficiency of its Quote, including the proposed pricing and the sustainability of the pricing. 10. There is no expectation or obligation for Respondents to submit Quotes in response to the RFQ solely to remain on any prequalified or registered supplier list. Any Respondent on such a list will not be penalised for failure to submit a Quote. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Date.png | * 1. Offer Validity Period  1. Quotes are to remain valid and open for acceptance by the Buyer for the Offer Validity Period. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Date.png | * 1. Respondents’ deadline for questions  1. Each Respondent should satisfy itself as to the interpretation of the RFQ. If there is any perceived ambiguity or uncertainty in the RFQ document/s Respondents should seek clarification before the Deadline for Questions. 2. All requests for clarification must be made by email to the Buyer’s Point of Contact. The Buyer will endeavour to respond to requests in a timely manner, but not later than the deadline for the Buyer to answer Respondents’ questions in Section 1, paragraph 1.2.a, if applicable. 3. If the Buyer considers a request to be of sufficient importance to all Respondents it may provide details of the question and answer to other Respondents. In doing so the Buyer may summarise the Respondent’s question and will not disclose the Respondent’s identity. The question and answer may be posted on GETS and/or emailed to participating Respondents. A Respondent may withdraw a request at any time. 4. In submitting a request for clarification, a Respondent is to indicate, in its request, any information that is commercially sensitive. The Buyer will not publish such commercially sensitive information. However, the Buyer may modify a request to eliminate such commercially sensitive information and publish this and the answer where the Buyer considers it of general significance to all Respondents. In this case, however, the Respondent will be given an opportunity to withdraw the request or remove the commercially sensitive information. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Truck.png | * 1. Submitting a Quote  1. Each Respondent is responsible for ensuring that its Quote is received by the Buyer at the correct address on or before the Deadline for Quotes. The Buyer will acknowledge receipt of each Quote. 2. The Buyer intends to rely on the Respondent’s Quote and all information provided by the Respondent (e.g., correspondence and negotiations). In submitting a Quote and communicating with the Buyer each Respondent should check that all information it provides to the Buyer is: 3. true, accurate and complete, and not misleading in any material respect. 4. does not contain Intellectual Property that will breach a third party’s rights. 5. Where the Buyer requires the Quote to be delivered in hard and soft copies, the Respondent is responsible for ensuring that both the hard and soft copies are identical. 6. Where the Buyer stipulates a two envelope RFQ process the following applies: 7. each Respondent must ensure that all financial information and pricing components of its Quote are provided separately from the remainder of its Quote. 8. financial information and pricing must be contained either in a separate sealed envelope or as a separate soft copy file (whichever option has be requested by the Buyer) 9. the pricing information must be clearly marked ‘Financial and Pricing Information.’ This is to ensure that the pricing information cannot be viewed when the package containing the other elements of the Quote is opened. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Check in box.png | Assessing Quotes   * 1. Evaluation panel  1. The Buyer will convene an evaluation panel comprising members chosen for their relevant expertise and experience. In addition, the Buyer may invite independent advisors to evaluate any Quote, or any aspect of any Quote. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Check in box.png | * 1. Third Party information  1. Each Respondent authorises the Buyer to collect additional information, except commercially sensitive pricing information, from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of its evaluation of the Respondent’s Quote. 2. Each Respondent is to ensure that all referees listed in support of its Quote agree to provide a reference. 3. To facilitate discussions between the Buyer and third parties each Respondent waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information. |
| F:\ICONS GMRFx\Icons_Search.png | * 1. Buyer’s clarification  1. The Buyer may, at any time, request from any Respondent clarification of its Quote as well as additional information about any aspect of its Quote. The Buyer is not required to request the same clarification or information from each Respondent. 2. The Respondent must provide the clarification or additional information in the format requested. Respondents will endeavour to respond to requests in a timely manner. The Buyer may take such clarification or additional information into account in evaluating the Quote. 3. Where a Respondent fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Buyer may cease evaluating the Respondent’s Quote and may eliminate the Quote from the RFQ process. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Bar graph.png | * 1. Evaluation and shortlisting  1. The Buyer will base its initial evaluation on the Quotes submitted in response to the RFQ. The Buyer may adjust its evaluation of a Quote following consideration of any clarification or additional information as described in paragraphs 6.6 and 6.7. 2. In deciding which Respondent/s to shortlist the Buyer will take into account the results of the evaluations of each Quote and the following additional information: 3. each Respondent’s understanding of the Requirements, capability to fully deliver the Requirements and willingness to meet the terms and conditions of the Proposed Contract 4. except where the price is the only criterion, the best value-for-money over the whole-of-life of the goods or services. 5. In deciding which Respondent/s, to shortlist the Buyer may take into account any of the following additional information: 6. the results from reference checks, site visits, product testing and any other due diligence 7. the ease of contracting with a Respondent based on that Respondent’s feedback on the Proposed Contract (where these do not form part of the weighted criteria) 8. any matter that materially impacts on the Buyer’s trust and confidence in the Respondent 9. any other relevant information that the Buyer may have in its possession. 10. The Buyer will advise Respondents if they have been shortlisted or not. Being shortlisted does not constitute acceptance by the Buyer of the Respondent’s Quote, or imply or create any obligation on the Buyer to enter into negotiations with, or award a Contract for delivery of the Requirements to any shortlisted Respondent/s. At this stage in the RFQ process the Buyer will not make public the names of the shortlisted Respondents. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_People.png | * 1. Negotiations  1. The Buyer may invite a Respondent to enter into negotiations with a view to contract. Where the outcome is unsatisfactory the Buyer may discontinue negotiations with a Respondent and may then initiate negotiations with another Respondent. 2. The Buyer may initiate concurrent negotiations with more than one Respondent. In concurrent negotiations the Buyer will treat each Respondent fairly, and: 3. prepare a negotiation plan for each negotiation. 4. advise each Respondent, that it wishes to negotiate with, that concurrent negotiations will be carried out 5. hold separate negotiation meetings with each Respondent. 6. Each Respondent agrees that any legally binding contract entered into between the Successful Respondent and the Buyer will be essentially in the form set out in Section 5, the Proposed Contract. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Conversation.png | * 1. Respondents debrief  1. At any time after shortlisting Respondents the Buyer will offer all Respondents who have not been shortlisted a debrief. Each Respondent will have 30 Business Days, from the date of offer, to request a debrief. When a Respondent requests a debrief, the Buyer will provide the debrief within 30 Business Days of the date of the request, or of the date the Contract is signed, whichever is later. 2. The debrief may be provided by letter, email, phone or at a meeting. The debrief will: 3. provide the reasons why the Quote was or was not successful. 4. explain how the Quote performed against the pre-conditions (if applicable) and the evaluation criteria. 5. indicate the Quote’s relative strengths and weaknesses. 6. explain, in general terms, the relative advantage/s of the successful Quote. 7. seek to address any concerns or questions from the Respondent. 8. seek feedback from the Respondent on the RFQ and the RFQ process. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Speaker.png | * 1. Notification of outcome  1. At any point after conclusion of negotiations, but no later than 30 Business Days after the date the Contract is signed, the Buyer will inform all unsuccessful Respondents of the name of the Successful Respondent, if any. The Buyer may make public the name of the Successful Respondent and any unsuccessful Respondent. Where applicable, the Buyer will publish a Contract Award Notice on GETS. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Flag.png | * 1. Issues and complaints  1. A Respondent may, in good faith, raise with the Buyer any issue or complaint about the RFQ, or the RFQ process at any time. 2. The Buyer will consider and respond promptly and impartially to the Respondent’s issue or complaint. 3. Both the Buyer and Respondent agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFQ. 4. The fact that a Respondent has raised an issue or complaint is not to be used by the Buyer to unfairly prejudice the Respondent’s ongoing participation in the RFQ process or future contract opportunities. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Glasses.pngF:\ICONS GMRFx\ICONS dark grey\Icons_Glasses.png | Standard RFQ conditions   * 1. Buyer’s point of contact  1. All enquiries regarding the RFQ must be directed by email to the Buyer’s Point of Contact. Respondents must not directly or indirectly approach any representative of the Buyer, or any other person, to solicit information concerning any aspect of the RFQ. 2. Only the Point of Contact, and any authorised person of the Buyer, are authorised to communicate with Respondents regarding any aspect of the RFQ. The Buyer will not be bound by any statement made by any other person. 3. The Buyer may change the Point of Contact at any time. The Buyer will notify Respondents of any such change. This notification may be posted on GETS or sent by email. 4. Where a Respondent has an existing contract with the Buyer then business as usual communications, for the purpose of managing delivery of that contract, will continue using the usual contacts. Respondents must not use business as usual contacts to lobby the Buyer, solicit information or discuss aspects of the RFQ. |
|  | * 1. Conflict of interest  1. Each Respondent must complete the Conflict of Interest declaration in the Response Form and must immediately inform the Buyer should a Conflict of Interest arise during the RFQ process. A material Conflict of Interest may result in the Respondent being disqualified from participating further in the RFQ. |
|  | * 1. Ethics  1. Respondents must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of the Buyer in relation to the RFQ. 2. A Respondent who attempts to do anything prohibited by paragraphs 6.13.a. and d. and 6.15.a. may be disqualified from participating further in the RFQ process. 3. The Buyer reserves the right to require additional declarations, or other evidence from a Respondent, or any other person, throughout the RFQ process to ensure probity of the RFQ process. |
|  | * 1. Anti-collusion and bid rigging  1. Respondents must not engage in collusive, deceptive, or improper conduct in the preparation of their Quotes or other submissions or in any discussions or negotiations with the Buyer. Such behaviour will result in the Respondent being disqualified from participating further in the RFQ process. In submitting a Quote, the Respondent warrants that its Quote has not been prepared in collusion with a Competitor. 2. The Buyer reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Respondents to the appropriate authority and to give that authority all relevant information including a Respondent’s Quote. |
|  | * 1. Confidential information  1. The Buyer and Respondent will each take reasonable steps to protect Confidential Information and, subject to paragraph 6.17.c. and without limiting any confidentiality undertaking agreed between them, will not disclose Confidential Information to a third party without the other’s prior written consent. 2. The Buyer and Respondent may each disclose Confidential Information to any person who is directly involved in the RFQ process on its behalf, such as officers, employees, consultants, contractors, professional advisors, evaluation panel members, partners, principals or directors, but only for the purpose of participating in the RFQ. 3. Respondents acknowledge that the Buyer’s obligations under paragraph 6.17.a. are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, parliamentary and constitutional convention and any other obligations imposed by law. The Buyer will not be in breach of its obligations if Confidential Information is disclosed by the Buyer to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour. Where the Buyer receives an OIA request that relates to a Respondent’s Confidential Information the Buyer will consult with the Respondent and may ask the Respondent to explain why the information is considered by the Respondent to be confidential or commercially sensitive. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Glasses.png | * 1. Confidentiality of RFQ information  1. For the duration of the RFQ, to the date of the announcement of the Successful Respondent, or the end of the RFQ process, the Respondent agrees to keep the RFQ strictly confidential and not make any public statement to any third party in relation to any aspect of the RFQ, the RFQ process or the award of any Contract without the Buyer’s prior written consent. 2. A Respondent may disclose RFQ information to any person described in paragraph 6.17.b. but only for the purpose of participating in the RFQ. The Respondent must take reasonable steps to ensure that such recipients do not disclose Confidential Information to any other person or use Confidential Information for any purpose other than responding to the RFQ. |
|  | * 1. Costs of participating in the RFQ process  1. Each Respondent will meet its own costs associated with the preparation and presentation of its Quote and any negotiations. |
|  | * 1. Ownership of documents  1. The RFQ and its contents remain the property of the Buyer. All Intellectual Property rights in the RFQ remain the property of the Buyer or its licensors. The Buyer may request the immediate return or destruction of any or all RFQ documents and any copies. Respondents must comply with any such request in a timely manner. 2. All documents forming the Quote will, when delivered to the Buyer, become the property of the Buyer. Quotes will not be returned to Respondents at the end of the RFQ process. 3. Ownership of Intellectual Property rights in the Quote remain the property of the Respondent or its licensors. However, the Respondent grants to the Buyer a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Quote for any purpose related to the RFQ process. |
|  | * 1. No binding legal relations  1. Neither the RFQ, nor the RFQ process, creates a process contract or any legal relationship between the Buyer and any Respondent, except in respect of: 2. the Respondent’s declaration in its Quote 3. the Offer Validity Period 4. the Respondent’s statements, representations and/or warranties in its Quote and in its correspondence and negotiations with the Buyer 5. the Evaluation Approach to be used by the Buyer to assess Quotes as set out in Section 3 and in the RFQ-Terms (as varied by Section 1, paragraph 1.6, if applicable) 6. the standard RFQ conditions set out in paragraphs 6.13 to 6.26 7. any other matters expressly described as binding obligations in Section 1, paragraph 1.6. 8. Each exception in paragraph 6.21.a. is subject only to the Buyer’s reserved rights in paragraph 6.23. 9. Except for the legal obligations set out in paragraph 6.21.a. no legal relationship is formed between the Buyer and any Respondent unless and until a Contract is entered into between those parties. |
|  | * 1. Elimination  1. The Buyer may exclude a Respondent from participating in the RFQ if the Buyer has evidence of any of the following, and is considered by the Buyer to be material to the RFQ: 2. the Respondent has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFQ. 3. the Quote contains a material error, omission or inaccuracy. 4. the Respondent is in bankruptcy, receivership or liquidation. 5. the Respondent has made a false declaration. 6. there is a serious performance issue in a historic or current contract delivered by the Respondent. 7. the Respondent has been convicted of a serious crime or offence. 8. there is professional misconduct or an act or omission on the part of the Respondent which adversely reflects on the integrity of the Respondent. 9. the Respondent has failed to pay taxes, duties or other levies. 10. the Respondent represents a threat to national security or the confidentiality of sensitive government information. 11. the Respondent is a person or organisation designated as a terrorist by New Zealand Police. |
|  | * 1. Buyer’s additional rights  1. Despite any other provision in the RFQ the Buyer may, on giving due notice to Respondents: 2. amend, suspend, cancel and/or re-issue the RFQ, or any part of the RFQ. 3. make any material change to the RFQ (including any change to the timeline, Requirements or Evaluation Approach) on the condition that Respondents are given a reasonable time within which to respond to the change. 4. Despite any other provision in the RFQ the Buyer may: 5. accept a late Quote if it is the Buyer’s fault that it is received late. 6. in exceptional circumstances, accept a late Quote where it considers that there is no material prejudice to other Respondents. The Buyer will not accept a late Quote if it considers that there is risk of collusion on the part of a Respondent, or the Respondent may have knowledge of the content of any other Quote. 7. in exceptional circumstances, answer a question submitted after the Deadline for Questions, if applicable 8. accept or reject any Quote, or part of a Quote. 9. accept or reject any non-compliant, non-conforming or alternative Quote. 10. decide not to accept the lowest priced conforming Quote unless this is stated as the Evaluation Approach 11. decide not to enter into a Contract with any Respondent. 12. liaise or negotiate with any Respondent without disclosing this to, or doing the same with, any other Respondent. 13. provide or withhold from any Respondent information in relation to any question arising in relation to the RFQ. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to a Respondent, is inappropriate to supply at the time of the request or cannot be released for legal reasons. 14. amend the Proposed Contract at any time, including during negotiations with a shortlisted Respondent. 15. waive irregularities or requirements in or during the RFQ process where it considers it appropriate and reasonable to do so. 16. The Buyer may request that a Respondent/s agrees to the Buyer: 17. selecting any individual element/s of the Requirements that is offered in a Quote and capable of being delivered separately, unless the Quote specifically states that the Quote, or elements of the Quote, are to be taken collectively. 18. selecting two or more Respondents to deliver the Requirements as a joint venture or consortium. |
| F:\ICONS GMRFx\ICONS dark grey\Icons_Glasses.png | * 1. New Zealand law  1. The laws of New Zealand shall govern the RFQ, and each Respondent agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFQ or the RFQ process. |
|  | * 1. Disclaimer  1. The Buyer 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 Respondent or any other person in respect of the RFQ process. 2. Nothing contained or implied in the RFQ, or RFQ process, or any other communication by the Buyer to any Respondent shall be construed as legal, financial or other advice. The Buyer has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated. 3. To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer, its agents and advisors is $1. |
|  | * 1. Precedence  1. Any conflict or inconsistency in the RFQ shall be resolved by giving precedence in the following descending order: 2. Section 1, paragraph 1.6 3. Section 6 (RFQ-Terms) 4. all other Sections of this RFQ document 5. any additional information or document provided by the Buyer to Respondents through the Buyer’s Point of Contact or GETS. 6. If there is any conflict or inconsistency between information or documents having the same level of precedence the later information or document will prevail. |

Definitions

In relation to the RFQ the following words and expressions have the meanings described below.

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| Advance Notice | A notice published by the buyer on GETS in advance of publishing the RFQ. An Advance Notice alerts the market to a contract opportunity. Where used, an Advance Notice forms part of the RFQ. |
| Business Day | Any weekday in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year’s Day. |
| Buyer | The Buyer is the government agency that has issued the RFQ with the intent of purchasing the goods or services described in the Requirements. The term Buyer includes its officers, employees, contractors, consultants, agents and representatives. |
| Competitors | Any other business that is in competition with a Respondent either in relation to the goods or services sought under the RFQ or in general. |
| Confidential Information | Information that:   1. is by its nature confidential 2. is marked by either the Buyer or a Respondent as ‘confidential’, ‘commercially sensitive’, ‘sensitive’, ‘in confidence’, ‘top secret’, ‘secret’, classified’ and/or ‘restricted’ 3. is provided by the Buyer, a Respondent, or a third party in confidence 4. the Buyer or a Respondent knows, or ought to know, is confidential.   Confidential information does not cover information that is in the public domain through no fault of either the Buyer or a Respondent. |
| Conflict of Interest | A Conflict of Interest arises if a Respondent’s personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to the Buyer under the RFQ or in the provision of the goods or services. It means that the Respondent’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. |
| Contract | The written Contract/s entered into by the Buyer and Successful Respondent/s for the delivery of the Requirements. |
| Contract Award Notice | Government Rules of Sourcing, Rule 45 requires a Buyer to publish a Contract Award Notice on GETS when it has awarded a contract that is subject to the Rules. |
| Deadline for Quotes | The deadline that Quotes are to be delivered or submitted to the Buyer as stated in Section 1, paragraph 1.2. |
| Deadline for Questions | The deadline for suppliers to submit questions to the Buyer as stated in Section 1, paragraph 1.2, if applicable. |
| Evaluation Approach | The approach used by the Buyer to evaluate Quotes as described in Section 3 and in Section 6 (as varied by Section 1, paragraph 1.6, if applicable). |
| GETS | Government Electronic Tenders Service available at [www.gets.govt.nz](http://www.gets.govt.nz) |
| 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. |
| Offer Validity Period | The period of time when a Quote (offer) is held open by the Respondent for acceptance by the Buyer as stated in Section 1, paragraph 1.6. |
| Point of Contact | The Buyer and each Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFQ process. The Buyer’s Point of Contact is identified in Section 1, paragraph 1.3. The Respondent’s Point of Contact is identified in its Quote. |
| Price | The total amount, including all costs, fees, expenses and charges, to be charged by the Successful Respondent for the full delivery of the Requirements. Each Respondent’s Quote must include its Price. |
| Quote | The response a Respondent submits in reply to the RFQ. It comprises the Response Form, the Respondent’s bid, financial and pricing information and all other information submitted by a Respondent. |
| Proposed Contract | The Contract terms and conditions proposed by the Buyer for the delivery of the Requirements as described in Section 5. |
| RFQ | Means the Request for Quote. |
| Registration of Interest | A formal request by a Buyer asking potential suppliers to register their interest in a procurement. It is the first step in a multi-step tender process. |
| Request for Quote (RFQ) | The RFQ comprises the Advance Notice (where used), the Registration of Interest (where used), this RFQ document (including the RFQ-Terms) and any other schedule, appendix or document attached to this RFQ, and any subsequent information provided by the Buyer to Respondents through the Buyer’s Point of Contact or GETS. |
| RFQ-Terms | Means the Request for Quote - Process, Terms and Conditions as described in Section 6. |
| RFQ Process, Terms and Conditions (shortened to RFQ-Terms) | The government’s standard process, terms and conditions that apply to RFQs as described in Section 6. These may be varied at the time of the release of the RFQ by the Buyer in Section 1, paragraph 1.6. These may be varied subsequent to the release of the RFQ by the Buyer on giving notice to Respondents. |
| Requirements | The goods and/or services described in Section 2 which the Buyer intends to purchase. |
| Respondent | A person, organisation, business or other entity that submits a Quote in response to the RFQ. The term Respondent includes its officers, employees, contractors, consultants, agents and representatives. The term Respondent differs from a supplier, which is any other business in the market place that does not submit a Quote. |
| Response Form | The form and declaration prescribed by the Buyer and used by a Respondent to respond to the RFQ, duly completed and submitted by a Respondent as part of the Quote. |
| Successful Respondent | Following the evaluation of Quotes and successful negotiations, the Respondent/s who is awarded a Contract/s to deliver all or part of the Requirements. |