



Ministry of **Transport**
TE MANATŪ WAKA

Request for Proposals

for International Air Freight Capacity

****Dates updated 28 March 2020****

RFP released: 24 March 2020

~~Deadline for Questions: 4pm 28 March 2020~~

New deadline for Questions: 4pm 31 March 2020

~~Deadline for Proposals: 12pm 30 March 2020~~

New deadline for Proposals: 12pm 3 April 2020

Ministry of Transport
3 Queens Wharf
Wellington

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Overview

This RFP seeks to implement a financial support scheme to ensure that critical air freight capacity is maintained, despite the reduction in international passenger flights brought about by COVID-19.

This RFP is an emergency procurement conducted as part of the Government's emergency response to the health, wellbeing and economic impacts of COVID-19, and outlines a fast-track single-step process.

The Government wants to ensure service continuity on key routes for critical imports (particularly medicines, medical supplies and agricultural or other production machinery) and high value exports (particularly seafood, meat, horticulture) and to maintain the related resources and capability during the period of this RFP. To help support these emergency objectives, the interim financial support that will be provided to successful Applicants (described in this RFP) may be backdated to include some or all of the air-freight capacity actually provided by the Applicant on Routes they are selected for which has been used for such imports and exports during the period of this RFP.

Background

80% of air-freight is carried in the belly-hold of passenger aircraft, with the remaining 20% being carried by cargo-only air freighters. The 20% of air-freight is moved by four air cargo only operators, and the 80% of belly hold air-freight on passenger flights is carried by Air New Zealand, and a number of overseas carriers. 86% of air-freight operates from Auckland International Airport, with most of the remainder from Christchurch International Airport. Key international destinations for the movement of high value exports and critical imports are Sydney (and other Australian ports), Singapore, Hong Kong, Los Angeles, Dubai (and other Middle East ports) and Shanghai (and other Chinese ports).

Prior to COVID-19 there were approximately 550 international passenger flights into and out of New Zealand per week. Current estimates are for approximately 12 passenger flights per week. Border restrictions have meant most international airlines will reduce passenger services to limited or no services. Air New Zealand will also run only very limited services to international destinations.

Air-freight currently moves high-value export goods (like seafood, cut flowers, and time-sensitive agricultural products) that cannot be moved by sea. Reduced air-freight capacity due to border restrictions is having an immediate impact on these export jobs and businesses.

Critical imports also move by air-freight, in particular, medicines and medical devices. New Zealand is highly dependent on imports of these goods and the Government wants to take steps now to seek to prevent shortages or unavailability of them. New Zealand also relies on air-freight for importation of time-sensitive machinery which is important for agriculture and other key industries. It is critical that these imports continue to move to New Zealand.

Some cargo only airlines may be able to offer more services, but they will be in high demand internationally and prices have already increased significantly as a result of the constraints on, and location of, remaining capacity. These services and the remaining services left by Air New Zealand may not be sufficient to address the anticipated capacity gap and critical export and import needs.

Passenger planes have some freight capacity, but this is only about half the freight capacity of a cargo-only air freighter. Using empty passenger aircraft just to transport freight, therefore, is inefficient for airlines.

This means Government intervention is required to address the impacts of the border restrictions and to ensure we have at least minimum levels of critical imports and exports.

What we need

We need commitments from suppliers to make available agreed levels of international air freight capacity on key international air routes (see section 2.2), offered to the market at prices determined in accordance with an agreed end customer pricing methodology and designed to keep air freight affordable for those end-users, with priority given to critical imports and high value exports (see section 2.2). This will benefit New Zealanders, both exporters and consumers and the community as a whole.

What we don't want

We do not want the Government to buy or resell international airfreight capacity. We want to support existing market mechanisms by procuring commitments to make capacity available to the market.

We do not want proposals relating solely to passenger capacity, although we will consider proposals to make available airfreight capacity on passenger flights. Passenger capacity that is available may be viewed as a benefit on Routes where some level of passenger traffic demand continues (including to assist with any repatriation measures that may be supported by the Government).

We are not seeking proposals relating to domestic airfreight capacity under this RFP.

What's important to us

The overriding aim of this RFP is to achieve the Key Objectives outlined below. In summary, these relate to securing and maintaining continuity of available airfreight capacity for critical import and export needs, helping support New Zealand's aviation sector and position it for recovery, preserving connections with New Zealand's key international partners, and supporting repatriation.

We want to achieve our Key Objectives in the most efficient and cost-effective manner. That means we will only provide financial support for capacity on key routes where there is a high likelihood that, but for the funding, the capacity would not be provided, or would only be available at a cost that undermined our Key Objectives.

About the Ministry

The Ministry of Transport is the government's principal transport adviser. The majority of our work is in providing policy advice and support to Ministers.

Through our advice we aim to:

- improve the overall performance of the transport system;
- improve the performance of transport Crown entities; and
- achieve better value for money for the Government from its investment in the transport system.

We help the Government give effect to its policy by supporting the development of legislation, regulations and rules. We also manage and account for funds invested in transport.

The Ministry represents New Zealand's interests internationally, particularly in aviation and maritime.

SECTION 1: Key information



1.1 Context

- a. This Request for Proposal (RFP) is an invitation to suitably qualified suppliers to submit a Proposal to receive Government financial support to provide airfreight capacity and services on specified air routes. This is part of the Government's COVID-19 response measures.
- b. The financial support would be provided to enable the supplier to make available agreed levels of international air freight capacity on international air routes agreed with the Ministry, offered to the market at prices determined in accordance with an agreed pricing methodology and designed to keep air freight affordable for those end-users, which will benefit New Zealanders (exporters, consumers and the community as a whole).
- c. This RFP is a fast-track single-step procurement process that is being conducted as part of an emergency response to the immediate (and medium term) health, wellbeing and economic impacts of COVID-19.
- d. As outlined in Section 2.5 below, this RFP envisages two phases of financial support. The first phase will start as soon as contracts are awarded under this RFP. The second phase is designed as a review, refinement and extension of the first phase.
- e. The Ministry may also run one or more other processes (including by making further requests for proposals) in connection with the provision of further support for international airfreight capacity. Participation in these other processes may be open to other suppliers too and not just limited to Successful Applicants.
- f. Words and phrases that have a special meaning are shown by the use of capitals e.g. Applicant, which means 'a person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Applicant includes its officers, employees, contractors, consultants, agents and representatives. The term Applicant differs from a supplier, which is any other business in the market place that does not submit a Proposal.'. Definitions are at the end of [Section 6](#).



1.2 Our timeline

- a. Here is our timeline for this RFP.

Steps in RFP process:	Date:
Deadline for Questions from suppliers:	4pm, 27 Mar 31 March 2020
Deadline for the Ministry to answer suppliers' questions:	4pm, 28 Mar 1 April 2020
Deadline for Proposals:	12pm, 30 Mar 3 April 2020
Evaluation of Proposals	30 Mar – 5 Apr 4-11 April 2020
Interactive engagement with shortlisted Applicants	1-4 12-15 April 2020
Recommendations to Ministers	6 17 April 2020
Applicants notified of outcome:	7 18 April 2020
Final contract negotiations	8-9 18-19 April 2020
Anticipated Contract start date:	10 21 April 2020

- b. All dates and times are dates and times in New Zealand.



1.3 How to contact us

- a. All enquiries must be directed to our Point of Contact. We will manage all external communications through this Point of Contact.
 - b. **Our Point of Contact**
Name: Jane Godfrey]
Title/role: Senior Adviser - Evaluation
Email address: J.Godfrey@transport.govt.nz
 - c. Canvassing or lobbying Ministers or officials other than the Point of Contact in relation to this RFP is prohibited.
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1.4 Developing and submitting your Proposal

- a. This is an open, competitive tender process. The RFP sets out the step-by-step process and conditions that apply. The Ministry reserves the right to encourage or invite specific suppliers to participate.
 - b. Take time to read and understand the RFP. In particular:
 - i. develop a strong understanding of our Requirements detailed in [Section 2](#).
 - ii. in structuring your Proposal consider how it will be evaluated. [Section 3](#) describes our Evaluation Approach.
 - c. For resources on tendering visit www.procurement.govt.nz/suppliers.
 - d. If anything is unclear or you have a question, ask us to explain. Please do so before the Deadline for Questions. Email our [Point of Contact](#).
 - e. In submitting your Proposal you must use the Response Form that accompanies this RFP document.
 - f. You must also complete and sign the declaration at the end of the Response Form.
 - g. Check you have provided all information requested, and in the format and order asked for.
 - h. Please ensure you get your Proposal to us before the Deadline for Proposals.
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1.5 Joint proposals

- a. In developing Proposals, Applicants are encouraged to work collaboratively with freight forwarders, importers, exporters, airports, logistics providers and other relevant market participants.
 - b. We anticipate most Applicants will be passenger airlines and specialist cargo-only air freight carriers, but others may be in a position to put together a proposal or be a member of a consortium that includes an airline or cargo carrier.
 - c. Applicants may work collaboratively with each other on joint proposals, provided this does not involve collusion or anti-competitive behaviour that might deprive us of the opportunity to consider options or benefits that Applicants could otherwise propose independently.
 - d. Where two or more Applicants collaborate in relation to a Proposal, the extent and nature of the collaboration must be fully disclosed in the Proposal.
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- e. All Applicants must ensure their conduct complies with the Commerce Act 1986, having regard to the Government Policy Statement¹ and Commerce Commission statement² on business co-operation for essential goods and services.
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1.6 Address for submitting your Proposal

- a. Proposals must be submitted by email to the following address:
evaluation@transport.govt.nz
- b. Proposals sent by post or fax, or hard copy delivered to our office, will not be accepted.
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1.7 Our RFP Process, Terms and Conditions

- a. Offer Validity Period: In submitting a Proposal the Applicant agrees that their offer will remain open for acceptance by the Ministry for 30 calendar days from the Deadline for Proposals.
- b. The RFP is subject to the RFP Process, Terms and Conditions (shortened to RFP-Terms) described in [Section 6](#).
- c. We have made variations to the RFP-Terms, as against the standard RFP template available at www.procurement.govt.nz.³ The variations are shown in the **attached** comparison document.
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1.8 Later changes to the RFP or RFP process

- a. If, after distributing the RFP, we need to change anything about the RFP, or RFP process, or want to provide suppliers with additional information we will let all suppliers who have notified us that they are preparing proposals know by contacting their nominated contact at the email address we have on file for them.
- b. The nominated contact is the person we sent this RFP to, or the replacement contact that you have notified to us by emailing us at evaluation@transport.govt.nz.
- c. Note that once Proposals have been received, we intend to engage individually with shortlisted Applicants, and information exchanged in the course of that engagement will not necessarily be available to all Applicants.
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¹ <https://www.beehive.govt.nz/release/government-statement-commercial-cooperation-during-covid-19>

² <https://comcom.govt.nz/news-and-media/media-releases/2020/covid-19-commerce-commission-approach-to-essential-goods-and-services-business-cooperation>

³ <https://www.procurement.govt.nz/assets/procurement-property/documents/rfp-template-government-model.docx>

SECTION 2: Our Requirements

2.1 Background

This procurement is part of the New Zealand Government's emergency response to COVID-19. Its aim is to make available financial support to secure the continued availability of air freight capacity on international air routes to and from New Zealand's principal trading markets and international partners.

Previously this capacity has been provided by the market, provisioned mainly through belly-hold capacity on passenger flights. COVID-19 has significantly reduced international passenger flights, in turn raising concerns about international airfreight capacity.

In the long run it is expected that a new version of normal will return to the aviation sector and sufficient belly-hold capacity will be available without the need for Government financial support. But in the short and medium term, a degree of financial support may be necessary.

2.2 What we are seeking from the market and why

Our aim is to secure agreed levels of international air freight capacity on key international air routes, by providing financial support to suppliers who can make that capacity available to the market at prices determined in accordance with an agreed pricing methodology.

Our goal is to secure supply of critical imports (particularly medicines, medical supplies, agricultural or other production machinery), maintain economic benefits of high value exports (particularly seafood, meat, horticulture), and keep air freight affordable for those end-users, which will benefit New Zealanders (exporters, consumers and the community as a whole). We may also identify other critical imports and exports during the course of the support.

We are looking to Applicants to propose the routes, capacity commitments, amount and duration of financial support, and end customer pricing methodology. Our aim is to enable a market-led approach where Proposals help us to identify what routes and capacity commitments (including particular combinations of them) will provide the most effective contribution to the following Key Objectives, and maximise the public value delivered for the funds applied.

Key Objectives

Our primary objectives are:

- a. Ensuring imports that are important for health (medicines and medical devices), business operations (agricultural or other production machinery) and other critical tasks continue to be brought to New Zealand in a timely and affordable manner.
- b. Maintaining air connectivity with key export markets, by ensuring our high value exports that travel by air (particularly seafood, meat and horticulture) still make it to those markets in a timely and affordable manner.

Our secondary objectives are:

- c. Contributing to repatriation of New Zealand residents and citizens, where suitable aircraft are available.
- d. Maintaining air connectivity with key tourism markets to enable fast recovery when border restrictions and isolation requirements are lifted.

- e. Supporting the long-term competitiveness and sustainability of the aviation sector in New Zealand, given its importance to trade, business, employment and travel in New Zealand.
- f. Maintaining the practical ability to support New Zealand’s international relations.

Key routes

Our analysis has identified a number of key routes as being important for the Key Objectives. These key routes are between New Zealand ports and: Sydney (and other Australian ports), Singapore, Hong Kong, Los Angeles, Dubai (and other Middle East ports) and Shanghai (and other Chinese ports). However, Applicants may propose other (additional) routes if they can demonstrate how securing airfreight capacity on those routes will contribute to the Key Objectives.

Prioritisation

Applicants will need to demonstrate how they are positioned to deliver on export and import priorities, and that they will prioritise those critical imports and high value exports in making capacity available to the market. The Government expects to adjust these priorities from time to time.

Repatriation

In relation to our secondary objective of contributing to passenger repatriation where possible, we note that this would be along successful Applicants’ freight routes and require the Ministry of Foreign Affairs and Trade to work with other Governments to enable this to occur, given the border restrictions currently in place in a number of countries relating to the movement of people. We would emphasise that the priority for this RFP is on securing airfreight capacity, and we would not expect Proposals to promote passenger capacity over airfreight capacity, but where the best option for provisioning airfreight capacity also provides passenger capacity, the resulting potential for contribution to repatriations would be of additional value.

2.3 What we require

We are seeking suppliers that are able to demonstrate the capability to:

- a. reliably make available international airfreight capacity on routes that will best contribute to the achievement of the Key Objectives in the short and medium term
- b. efficiently offer (including at the lowest cost practicable in the current circumstances) that capacity to the market (consistent with pre-existing practices and procedures), so that potential buyers of that capacity are aware that it is available, and able to access it when needed, and
- c. efficiently and consistently manage and allocate that capacity in accordance with an agreed prioritisation policy (subject to adjustment by the Government from time to time), so as to support the Key Objectives listed above.

Other than the pre-conditions listed in Section 3 below, we do not wish to impose any minimum requirements for a supplier to be eligible to submit a Proposal. As outlined in Section 3 below, we expect to select a portfolio of Proposals from different Applicants that collectively provides what we consider to be the best public value in achieving the Key Objectives. Suppliers both large and small may have a place in such a portfolio.

2.4 Your Proposal

Your Proposal must use the attached Response Form.

Your Proposal must specify the routes on which you are willing and able to make international airfreight capacity available to the market in return for financial support from the Government.

In summary, for each route, we need you to propose:

- a. the maximum capacity you can make available, and at what frequency
- b. the minimum capacity you can make available in a viable manner
- c. the amount of financial support you require to provide that capacity, and the minimum period for which you consider will need it in order for your proposal to be viable
- d. any rules or constraints on our ability to flex between that minimum and maximum
- e. how the financial support would be calculated, and the milestones/criteria on which it would be payable
- f. the pricing methodology that you would use to determine the prices offered to the market for the capacity you are committed to make available, and
- g. how you would propose to prioritise different categories of freight.

For each route, we also need the additional information requested in the Response Form.

Your Proposal must give us the option of separately accepting your Proposal in respect of any one or more of the routes covered. You must also indicate efficiencies and other impacts if we accept more than one.

2.5 Our approach to providing financial support to successful Applicants

The Government expects to provide financial support for an overall period of at least 6 months. During an initial period, preferably 2 months from early April 2020, our expectation is that financial support will be provided in the form of conditional grants.

After that initial period, the Government would hope to move away from conditional grants to other more cost-efficient mechanisms for providing financial support. The overall period of funding support is limited to the amount of funding available and subject to the development of the overall COVID-19 situation and any future recovery.

We refer to the initial arrangements involving conditional grants as “**Phase 1**”, and the subsequent arrangements involve alternative financial support mechanisms as “**Phase 2**”. This RFP seeks to select Applicants for both Phase 1 and Phase 2, albeit that the implementation of Phase 2 will involve additional review and negotiation. Accordingly, the Ministry is interested in assessing the Applicant’s willingness and ability to collaborate, co-ordinate and partner with Government and other market participants and to adopt a transparent/‘open-book’ approach to the cost and other financial information relevant to operating Routes, including to enable a smooth transition between Phase 1 and Phase 2.

Phase 1

In the initial period, a conditional grant (Phase 1) is the preferred support measure, because it is simple and should be quick and easy to implement and therefore best support the priority objective of securing and maintaining air freight routes in the short term.

The Ministry welcomes Applicants to propose an alternative approach that could apply during the initial period, and/or an alternative length of initial period. However, to be considered it must be

simple, and quick and easy to implement, and must achieve the Government’s short term priority objective more efficiently (including at lower cost to the Government) than the conditional grant approach. If you propose such an alternative approach, please document it in your Response Form.

Phase 2

Having achieved the short term priority objective, the Ministry will then look to review, assess and refine the financial support arrangements for the subsequent periods (i.e. transition to Phase 2 type support). This will include assessing the nature and extent of ongoing need for Government financial support and, if considered necessary, investigating and negotiating (in collaboration with successful Applicants, and possibly other market participants) one or more alternatives to the conditional grant approach in order for Government financial support to be more targeted to any shortfall between actual delivery cost and customer revenues on a Route and to most effectively utilise the balance of available support funding in a way that delivers better public value in meeting our Key Objectives.

Alternatives to conditional grants might include cost-recovery underwrites, or loans, or take or pay commitments. Other market participants may also be invited to join Phase 2.

Timing of Phase 1 vs Phase 2

The Ministry has a strong preference for each of its Phase 1 type support commitments to be limited to an initial period of 2 months. However, if you can demonstrate that a longer initial period is essential to enable you to put forward a Proposal that offers significantly better public value in meeting our Key Objectives, then we will consider a longer initial period.

Backdating

For those services selected by the Ministry to receive financial support, the conditional grants provided to successful Applicants may include backdating to the date of submission of the successful Proposal, where the Applicant was operating those services at a loss during that period.

Additional support through other processes

In addition to the support provided through Phase 1 and Phase 2, the Ministry may also run one or more other processes (including by making further requests for proposals) in connection with the provision of further support for international airfreight capacity. Participation in these other processes may be open to other suppliers too and not just limited to Successful Applicants.

2.6 Contract term

We anticipate that grant funding agreements will commence promptly following award and by no later than 14 April 2020 (or such other date as may be agreed).

The anticipated contract term and options to extend will depend on what is proposed by and negotiated with each Applicant.

The Response Form allows Applicants to seek financial support for a term of anywhere between 1 month and 6 months, and (consistent with Section 2.5 above) indicates our preference for a period of 2 months as the initial contract term.

For each Applicant and Route, beyond the initial contract term we may:

- a. decide not to provide any further financial support;
- b. agree to extend the existing arrangement, on the same or modified terms; or
- c. negotiate an alternative funding approach, for example, a cost-recovery underwrite, a loan, or a take or pay commitment.

SECTION 3: Our Evaluation Approach

This section sets out the Evaluation Approach that will be used to assess Proposals.

3.1 Pre-conditions

Each Proposal must meet all of the following pre-conditions. Proposals which fail to meet one or more may be eliminated from further consideration. Applicants who are unable to meet all pre-conditions should conclude that they will not benefit from submitting a Proposal.

#	Pre-conditions
1.	<p>Consistent with the confirmations required in the Response Form:</p> <ul style="list-style-type: none"> • Applicant holds an Air Operator Certificate for the aircraft type and airports covered by the Proposal, OR • Applicant has contractual arrangements in place with a person who holds an Air Operator Certificate for the aircraft type and airports covered by the Proposal, entitling the Applicant to subcontract the relevant flights to the certificate holder

3.2 Evaluation model

We will evaluate Proposals with a view to recommending to Ministers, from all the Proposals submitted by Applicants, a portfolio of routes and Proposals that we consider offers the best overall public value in contributing to the Key Objectives listed above. For the purposes of that assessment, we will look to prioritise the Key Objectives, from highest to lowest, in the order listed in Section 2 above.

Evaluation process



These steps are planned to be completed in 2.5 days, but will be accelerated further if at all possible.

3.3 Evaluation criteria

Proposals that meet the pre-conditions above will be evaluated according to the following evaluation criteria. **Criterion 1: Proposed Solution will be scored at the sub-component level (i.e. type of goods, counterfactual, meeting demand, designated capacity, prioritisation policy, market diversity, resilience and competitiveness). For the other 5 headings (numbered 2-6), scores will only be given at the criterion or heading level, not individual sub-components. Scores will be given only for the headings numbered 1-6, not individual sub-components.** Separate scores will be given for each route covered by the Proposal.

Aspects of an Applicant’s Proposal that are not specific to individual routes, e.g. the Applicant’s overall track record and operational capability (referred to as “non-route” factors) will be assessed once, with the result taken into account in the score given for each route.

The level of financial support sought is not a scored criterion, but is assessed as part of the overall public value assessment outlined at Section 3.6 below.

Criterion	Importance
<p>1. Proposed solution (fit for purpose)</p> <p>Type of goods: The extent to which the Applicant can demonstrate that the demand for air freight capacity on the relevant route is for types of goods that align with the priorities outlined in the Key Objectives.</p> <p>Counterfactual: The viability or otherwise of the relevant route(s) in the absence of financial support from the Government, and the associated impact on the Key Objectives.</p> <p>Meeting demand: The extent to which the Applicant can demonstrate demand for the capacity that it proposes to make available, minimizing any expenditure of public funds on capacity that goes unused.</p> <p>Designated capacity: The quantity and regularity of airfreight capacity that the Applicant can make available with the proposed financial support on the relevant route.</p> <p>Prioritisation policy: The Applicant’s willingness and capability to prioritise different categories of freight according to an agreed policy, reflecting the relative importance of the Key Objectives listed above, and adjusted by the Government from time to time.</p> <p>Market diversity, resilience and competitiveness: We want to preserve a mix of relationships and resources to spread risk and provide contingent options, and to structure our financial support (and develop it over time) in a way that aids the longer-term recovery and competitiveness of the aviation sector when the COVID-19 situation abates.</p>	<p>High</p> <p>High</p> <p>High</p> <p>High</p> <p>High</p> <p>High</p> <p>Medium</p>
<p>2. Capability of the Applicant to deliver</p> <p>Route-specific capability: The Applicant’s operational capacity for the relevant route. This includes whether they have or will be able to obtain the necessary regulatory approvals and associated permits to operate the route in accordance with the proposal.</p>	<p>High</p> <p>High</p>
<p>3. Capacity of the Applicant to deliver</p> <p>Flexibility: The extent to which the Proposal gives us the flexibility to increase or decrease capacity (and financial support) in response to changing conditions and priorities.</p> <p>Transparency: The extent to which the Supplier commits to an open-book approach on actual costs (agreed and eligible) and associated revenues so that financial support can be directed in an informed manner that makes best use of the funding available and maximises achievement of the Key Objectives and.</p>	<p>Medium</p> <p>Medium</p> <p>Medium</p>

<p>Collaboration and co-ordination: Applicant’s willingness and commitment to work with the Ministry to transition smoothly and effectively from Phase 1 to Phase 2, including revision and refinement of terms and financial support mechanism where needed.</p>	Medium
<p>4. Pricing Methodology (for end customer pricing)</p> <p>The extent to which the Applicant can demonstrate that its Proposal provides for capacity to be offered to the market at a price that is fair and reasonable, appropriately reflects the benefit of the financial support, and is affordable for end customers.</p>	<p>High</p> <p>High</p>
<p>5. Ease of implementation</p> <p>Minimising disruption: The extent to which successful implementation of a Proposal would require change to current normal market practices, systems and resources (for any supply chain participants, including the end user customer).</p> <p>Administrative efficiency: The extent to which the Proposal imposes the lowest practicable level of administrative cost and resource requirements for the Ministry.</p> <p>Risk: The commercial, legal and reputational risk associated with the Proposal, including the Applicant’s willingness to agree to our proposed contract terms</p>	<p>Medium</p> <p>Medium</p> <p>Medium</p> <p>Medium</p>
<p>6. Non-route-specific criteria (assessed once per provider across all routes)</p> <p>Aspects of an Applicant’s Proposal that are not specific to individual routes, including: overall experience, track record, operational capability, financial standing, risk, transparency and collaboration etc.</p>	<p>High</p> <p>High</p>

3.4 Scoring

The following scoring scale will be used in evaluating individual Proposals. Separate scores will be given for each route covered by the Proposal. Scores by individual panel members may be modified through a moderation process across the whole evaluation panel.

Rating	Definition	Score
<p>EXCELLENT significantly exceeds the criterion</p>	<p>Exceeds the criterion. Exceptional demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Proposal identifies factors that will offer potential added value, with supporting evidence.</p>	<p>9-10</p>
<p>GOOD exceeds the criterion in some aspects</p>	<p>Satisfies the criterion with minor additional benefits. Above average demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Proposal identifies factors that will offer potential added value, with supporting evidence.</p>	<p>7-8</p>
<p>ACCEPTABLE meets the criterion in full, but at a minimal level</p>	<p>Satisfies the criterion. Demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource, and quality measures required to meet the criterion, with supporting evidence.</p>	<p>5-6</p>
<p>MINOR RESERVATIONS marginally deficient</p>	<p>Satisfies the criterion with minor reservations. Some minor reservations of the Applicant’s relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.</p>	<p>3-4</p>
<p>SERIOUS RESERVATIONS significant issues that need to be addressed</p>	<p>Satisfies the criterion with major reservations. Considerable reservations of the Applicant’s relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.</p>	<p>1-2</p>

Rating	Definition	Score
UNACCEPTABLE significant issues not capable of being resolved	Does not meet the criterion. Does not comply and/or insufficient information provided to demonstrate that the Applicant has the ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	0

3.5 Financial support

Applicants are to provide as part of their Proposal the total amounts of financial support that they may seek to claim, and the basis on which the actual amount payable would be calculated (referred to as the **Support Amounts** and **Support Calculations** respectively).

The Support Amounts and Support Calculations are not a scored criterion, but are assessed as part of the overall public value assessment outlined at Section 3.6 below. That means they will be considered during the process of consolidating, moderating and making recommendations on the Proposals for each Route (see Step 3 of the diagram above).

3.6 Evaluation Process

Ranking Proposals for each route

For each route:

- a. We will evaluate each Proposal on each of the Evaluation Criteria listed above, using the scoring scale specified above. Criteria that are not specific to a route, such as the Applicant's overall experience and track record, would be evaluated once and the assessment taken into account in scoring all routes in its Proposal.
- b. Evaluation may be moderated by discussion between the evaluation panel members, and by comparisons between Proposals, bearing in mind our overriding goal of delivering the best public value in service of the Key Objectives.
- c. Once moderated scores have been determined for each of the Evaluation Criteria, the overall public value offered by the Proposal for the relevant route will be determined by considering these scores in relation to the level of financial support being sought. In some cases, this may mean that a lower-scoring Proposal is ranked ahead of a higher-scoring Proposal, for example, where the lower-scoring Proposal requires significantly less financial support from the Government.

Assembling a portfolio of routes and Proposals, and assessing against the Key Objectives

We will then assemble a number of alternative portfolios of routes and Proposals:

- a. aiming to prioritise those routes and Proposals where we consider the provision of financial support is likely to make the greatest contribution to overall public value in service of the Key Objectives, and
- b. recognising that different sizes of portfolio, and different combinations of routes and Proposals, will offer different trade-offs between the amount of financial support invested, and the return on that investment in terms of contribution towards securing the Key Objectives.

In assembling and assessing each portfolio:

- c. We may include more than one Proposal per route.
- d. For each route in the portfolio, we will generally prioritise Proposals according to the assessment of public value (as determined above), to determine which Proposal or Proposals are most favoured for that route.
- e. However, we will also take into consideration any factors that may justify favouring a lower-rated Proposal over a higher-rated one for a particular route, for example where an alternative Proposal offers better terms for selecting a bundle of routes as a package, and we consider that this will maximize the overall public value in service of the Key Objectives.

Selection of a portfolio

We will select the portfolio of Applicants, routes and Proposals assessed to offer the best public value in service of the Key Objectives. We will seek to negotiate contractual arrangements for those routes based on those Proposals, and the Applicants will be shortlisted accordingly.

The total financial support to be allocated, the total number of routes for which Proposals are accepted, and the total number of Proposals accepted, are entirely at the Government's discretion. It is for the Ministry and relevant Ministers to decide the appropriate trade-off between the overall amount of financial support invested and the return on that investment in terms of securing the Key Objectives.

The process outlined above is designed with a view to maximizing the public value delivered in service of the Key Objectives for any given total amount of financial support allocated. It is important to recognize that this multi-factorial and combinatorial assessment may result in some Proposals being selected over other Proposals in circumstances where the latter might appear to deliver better public value if compared in isolation.

3.7 Optional evaluation activities and due diligence

In addition to the above, we may undertake the following process and due diligence in relation to shortlisted Applicants and their Proposals. The findings will be taken into account in the evaluation process.

- a. Enquiring about the financial standing of the Applicant, including obtaining credit reports
- b. Q&A process and interview
- c. Discussion as necessary for clarification purposes and solution refinement

SECTION 4: Support amount/calculations

4.1 Support sought and costs related information to be provided by Applicants

In submitting the Support Amounts and Support Calculations, the Applicant must meet the following requirements:

- a. Applicants are to use the template provided in the Response Form.
- b. In preparing their Proposal, Applicants are to consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in the Proposal and Support Amounts and Support Calculations to manage such risks and contingencies.
- c. Applicants are to document in their Proposal all assumptions and qualifications made about the delivery of the Requirements, including in the Support Amounts and Support Calculations. This includes noting any changes to the Proposed Contract that would be required as part of their proposed Support Calculations.
- d. Support Amounts and Support Calculations should be tendered in \$US. Unless otherwise agreed, the Ministry will arrange contractual payments in \$US. If there are foreign exchange implications explain how risk in foreign exchange will be dealt with.
- e. Where an Applicant has an alternative method of Support Calculations (i.e. an approach that is different to the requirements of this RFP) this can be submitted as an alternative, but the Applicant must submit a Proposal with Support Amounts and Support Calculations that conform to the requirements of this RFP.
- f. Where two or more Applicants intend to lodge a joint or consortium Proposal the Support Amounts and Support Calculations must include all costs, fees, expenses and charges chargeable by all Applicants.

SECTION 5: Our Proposed Contract

5.1 Proposed Contract

The following is the Proposed Contract that we intend to use in relation to conditional grants for the initial period of 2 months (the Phase 1 type support).

In submitting your Proposal you must let us know if you wish to question and/or negotiate any of the terms or conditions in the Proposed Contract, or wish to negotiate new terms and/or conditions. The Response Form contains a section for you to state your position. If you do not state your position you will be deemed to have accepted the terms and conditions in the Proposed Contract in full.

SECTION 6: RFP Process, Terms and Conditions

Preparing and submitting a proposal

6.1 Preparing a Proposal

- a. Applicants are to use the Response Form provided and include all information requested by the Ministry in relation to the RFP.
- b. By submitting a Proposal the Applicant accepts that it is bound by the RFP Process, Terms and Conditions (RFP-Terms) contained in Section 6 (as varied by Section 1, paragraph 1.6, if applicable).
- c. Each Applicant will:
 - i. examine the RFP and any documents referenced in the RFP and any other information provided by the Ministry
 - ii. consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in its Proposal to manage such risks and contingencies
 - iii. document in its Proposal all assumptions and qualifications made about the delivery of the Requirements, including any assumption that the Ministry or a third party will deliver any aspect of the Requirements or incur any cost related to the delivery of the Requirements
 - iv. ensure that pricing information is quoted in NZ\$ exclusive of GST, except where this RFP specifically requires otherwise
 - v. if appropriate, obtain independent advice before submitting a Proposal
 - vi. satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing.
- d. There is no expectation or obligation for Applicants to submit Proposals in response to the RFP solely to remain on any prequalified or registered supplier list. Any Applicant on such a list will not be penalised for failure to submit a Proposal.

6.2 Offer Validity Period

- a. Proposals are to remain valid and open for acceptance by the Ministry for the Offer Validity Period.

6.3 Deadline for Questions

- a. Each Applicant should satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP document/s Applicants should seek clarification before the Deadline for Questions.
- b. All requests for clarification must be made by email to the Ministry's Point of Contact. The Ministry will endeavour to respond to requests in a timely manner, but not later than the deadline for the Ministry to answer Applicants' questions in Section 1, paragraph 1.2.a, if applicable.
- c. If the Ministry considers a request to be of sufficient importance to all Applicants it may provide details of the question and answer to other Applicants. In doing so the Ministry may summarise the Applicant's question and will not disclose the Applicant's identity. The question and answer may be emailed to participating Applicants. An Applicant may withdraw a request at any time.
- d. In submitting a request for clarification an Applicant is to indicate, in its request, any information that is commercially sensitive. The Ministry will not publish such commercially sensitive information. However, the Ministry may modify a request to eliminate such commercially sensitive information, and publish this and the answer where the Ministry considers it of general

significance to all Applicants. In this case, however, the Applicant will be given an opportunity to withdraw the request or remove the commercially sensitive information.

6.4 Submitting a Proposal

- a. Each Applicant is responsible for ensuring that its Proposal is received by the Ministry at the correct address on or before the Deadline for Proposals. The Ministry will acknowledge receipt of each Proposal.
- b. The Ministry intends to rely on the Applicant's Proposal and all information provided by the Applicant (e.g. correspondence and negotiations). In submitting a Proposal and communicating with the Ministry each Applicant should check that all information it provides to the Ministry is:
 - i. true, accurate and complete, and not misleading in any material respect
 - ii. does not contain Intellectual Property that will breach a third party's rights.
- c. The Ministry is under no obligation to check any RFP response for errors. Acceptance of an RFP response that contains errors will not invalidate any contract that may be negotiated on the basis of that RFP response.
- d. Where the Ministry requires the Proposal to be delivered in hard and soft copies, the Applicant is responsible for ensuring that both the hard and soft copies are identical.
- e. Where the Ministry stipulates a two envelope RFP process the following applies:
 - i. each Applicant must ensure that all financial information and pricing components of its Proposal are provided separately from the remainder of its Proposal
 - ii. financial information and pricing must be contained either in a separate sealed envelope or as a separate soft copy file (whichever option has been requested by the Ministry)
 - iii. 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 Proposal is opened.

Assessing Proposals

6.5 Evaluation panel

- a. The Ministry will convene an evaluation panel comprising members chosen for their relevant expertise and experience. In addition, the Ministry may invite independent advisors to evaluate any Proposal, or any aspect of any Proposal.

6.6 Third party information

- a. Each Applicant authorises the Ministry 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 Applicant's Proposal.
- b. Each Applicant is to ensure that all referees listed in support of its Proposal agree to provide a reference.
- c. To facilitate discussions between the Ministry and third parties each Applicant waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.

6.7 Ministry's clarification

- a. The Ministry may, at any time, request from any Applicant clarification of its Proposal as well as additional information about any aspect of its Proposal. The Ministry is not required to request the same clarification or information from each Applicant.

- b. The Applicant must provide the clarification or additional information in the format requested. Applicants will endeavour to respond to requests in a timely manner. The Ministry may take such clarification or additional information into account in evaluating the Proposal.
- c. Where an Applicant fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Ministry may cease evaluating the Applicant's Proposal and may eliminate the Proposal from the RFP process.

6.8 Evaluation and shortlisting

- a. The Ministry will base its initial evaluation on the Proposals submitted in response to the RFP. The Ministry may adjust its evaluation of a Proposal following consideration of any clarification or additional information as described in paragraphs 6.6 and 6.7.
- b. In deciding which Applicant/s, to shortlist the Ministry may take into account any of the following additional information:
 - i. the results from reference checks, site visits, product testing and any other due diligence
 - ii. the ease of contracting with an Applicant based on that Applicant's feedback on the Proposed Contract (where these do not form part of the weighted criteria)
 - iii. any matter that materially impacts on the Ministry's trust and confidence in the Applicant
 - iv. any other relevant information that the Ministry may have in its possession.
- c. The Ministry will advise Applicants if they have been shortlisted or not. Being shortlisted does not constitute acceptance by the Ministry of the Applicant's Proposal, or imply or create any obligation on the Ministry to enter into negotiations with, or award a contract or any financial support to any shortlisted Applicant/s. At this stage in the RFP process the Ministry will not make public the names of the shortlisted Applicants.

6.9 Negotiations

- a. The Ministry may enter into discussions and/or negotiations with any Applicant or Applicants at any time, and upon any terms and conditions, before or after acceptance of an RFP response. Where the outcome is unsatisfactory the Ministry may discontinue negotiations with any Applicant and/or initiate negotiations with another Applicant or Applicants.
- b. The Ministry may initiate concurrent negotiations with more than one Applicant. In concurrent negotiations the Ministry will endeavour to treat each Applicant fairly, subject to the legitimate time constraints arising from the urgent nature of this procurement as part of the Government's emergency response to COVID-19.
- c. Each Applicant agrees that any legally binding contract entered into between the Successful Applicant and the Ministry will be essentially in the form set out in Section 5, the Proposed Contract, although the Ministry may seek to negotiate changes to that form with individual Successful Applicants to deal with exigencies as they arise.

6.10 Applicant's debrief

- a. 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.
- b. The debrief may be provided by letter, email, phone or at a meeting. The debrief will:
 - i. provide the reasons why the Proposal was or was not successful
 - ii. explain how the Proposal performed against the pre-conditions (if applicable) and the evaluation criteria
 - iii. indicate the Proposal's relative strengths and weaknesses

- iv. explain, in general terms, the relative advantage/s of the successful Proposal
- v. seek to address any concerns or questions from the Respondent
- vi. seek feedback from the Respondent on the RFP and the RFP process.

6.11 Notification of outcome

- a. At any point after conclusion of negotiations, but no later than 30 Business Days after the date the Contract is signed, the Ministry will inform all unsuccessful Applicants of the name of the Successful Applicant(s), if any. The Ministry may make public the name of the Successful Applicant(s) and any unsuccessful Applicant(s). Where applicable, the Ministry will publish a Contract Award Notice on GETS.

6.12 Issues and complaints

- a. An Applicant may, in good faith, raise with the Ministry any issue or complaint about the RFP, or the RFP process at any time.
- b. The Ministry will consider and respond promptly and impartially to the Applicant's issue or complaint.
- c. Both the Ministry and Applicant agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFP.
- d. The fact that an Applicant has raised an issue or complaint is not to be used by the Ministry to unfairly prejudice the Applicant's ongoing participation in the RFP process or future contract opportunities.

6.13 Canvassing

- a. In respect of this RFP, Applicants will not canvass or lobby any Ministers, or any employees, contractors, consultants, board member of the Ministry or anyone who has a direct working relationship with the Ministry, other than the Ministry Point of Contact. Any Applicant found to have engaged in such conduct regarding this RFP may be excluded from further consideration.

6.14 [intentionally omitted]

6.15 Probity of RFP Responses

- a. Should any Applicant consider that they have been prejudiced by any breach of the terms of this RFP or any other relevant principles affecting the RFP process and/or evaluation of RFP responses, the Applicant must provide immediate notice of the alleged breach to the Ministry's Point of Contact. The Applicant should include in their notification the issues in dispute, the impact upon the Applicant's interest, any relevant background information and the outcome they seek to desire.

6.16 Advertising

- a. No advertisement or other information relating to this RFP process, or any contract that may arise out of it, shall be published in any newspaper, magazine, journal or other advertising media, or broadcast/disseminated by radio, television or other electronic media, without the prior written approval of the Ministry.

Standard RFP conditions

6.17 Ministry's Point of Contact

- a. All enquiries regarding the RFP must be directed by email to the Ministry's Point of Contact. Applicants must not directly or indirectly approach any representative of the Ministry, or any other person, to solicit information concerning any aspect of the RFP.
- b. Only the Point of Contact, and any authorised person of the Ministry, are authorised to communicate with Applicants regarding any aspect of the RFP. The Ministry will not be bound by any statement made by any other person.

- c. The Ministry may change the Point of Contact at any time. The Ministry will notify Applicants of any such change. This notification may be sent by email.
- d. Where an Applicant has an existing contract with the Ministry then business as usual communications, for the purpose of managing delivery of that contract, will continue using the usual contacts. Applicants must not use business as usual contacts to lobby the Ministry, solicit information or discuss aspects of the RFP.

6.18 Conflict of Interest

- a. Each Applicant must complete the Conflict of Interest declaration in the Response Form and must immediately inform the Ministry should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Applicant being disqualified from participating further in the RFP.

6.19 Ethics

- a. Applicants must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of the Ministry in relation to the RFP.
- b. An Applicant who attempts to do anything prohibited by paragraphs 6.176.17.a. and d. and 6.19.a. may be disqualified from participating further in the RFP process.
- c. The Ministry reserves the right to require additional declarations, or other evidence from an Applicant, or any other person, throughout the RFP process to ensure probity of the RFP process.

6.20 Anti-collusion and bid rigging

- a. Applicants must not engage in collusive, deceptive or improper conduct in the preparation of their Proposals or other submissions or in any discussions or negotiations with the Ministry. Such behaviour will result in the Applicant being disqualified from participating further in the RFP process. In submitting a Proposal the Applicant warrants that its Proposal has not been prepared in collusion with a Competitor. This does not prevent Competitors from submitting joint Proposals, where they each remain free to submit individual Proposals, they do not discuss or exchange any information regarding their individual Proposals, and they do not enter into any agreement, arrangement or understanding that would limit their incentives to submit competitive individual Proposals.
- b. The Ministry reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Applicants to the appropriate authority and to give that authority all relevant information including an Applicant's Proposal.

6.21 Confidential Information

- a. The Ministry and Applicant will each take reasonable steps to protect Confidential Information and, subject to paragraph 6.21.c6.21. 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.
- b. The Ministry and Applicant may each disclose Confidential Information to any person who is directly involved in the RFP 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 RFP.
- c. Applicants acknowledge that the Ministry's obligations under paragraph 6.21.a6.21. 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 Ministry will not be in breach of its obligations if Confidential Information is disclosed by the Ministry to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour. Where the Ministry receives an OIA request that relates to an Applicant's Confidential Information the Ministry will consult with the Applicant and may ask the Applicant to

explain why the information is considered by the Applicant to be confidential or commercially sensitive.

6.22 Confidentiality of RFP information

- a. For the duration of the RFP, to the date of the announcement of the Successful Applicant(s), or the end of the RFP process, the Applicant agrees to keep the RFP strictly confidential and not make any public statement to any third party in relation to any aspect of the RFP, the RFP process or the award of any Contract without the Ministry's prior written consent.
- b. An Applicant may disclose RFP information to any person described in paragraph 6.21.b. but only for the purpose of participating in the RFP. The Applicant 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 RFP.

6.23 Costs of participating in the RFP process

- a. Each Applicant will meet its own costs associated with the preparation and presentation of its Proposal and any negotiations.

6.24 Ownership of documents

- a. The RFP and its contents remain the property of the Ministry. All Intellectual Property rights in the RFP remain the property of the Ministry or its licensors. The Ministry may request the immediate return or destruction of any or all RFP documents and any copies. Applicants must comply with any such request in a timely manner.
- b. All documents forming the Proposal will, when delivered to the Ministry, become the property of the Ministry. Proposals will not be returned to Applicants at the end of the RFP process.
- c. Ownership of Intellectual Property rights in the Proposal remain the property of the Applicant or its licensors. However, the Applicant grants to the Ministry a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process.

6.25 No binding legal relations

- a. Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between the Ministry and any Applicant, except in respect of:
 - i. the Applicant's declaration in its Proposal
 - ii. the Offer Validity Period
 - iii. the Applicant's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with the Ministry
 - iv. the Evaluation Approach to be used by the Ministry to assess Proposals as set out in Section 3 and in the RFP-Terms (as varied by Section 1, paragraph 1.6, if applicable)
 - v. the standard RFP conditions set out in paragraphs 6.17 to 6.30
 - vi. any other matters expressly described as binding obligations in Section 1, paragraph 1.6.
- b. Each exception in paragraph 6.25.a. is subject only to the Ministry's reserved rights in paragraph 6.27.
- c. Except for the legal obligations set out in paragraph 6.25.a. no legal relationship is formed between the Ministry and any Applicant unless and until a Contract is entered into between those parties.
- d. Nothing in this RFP, or in the relationship of the Ministry and that party, imposes any duty of care on the Crown or the Ministry, and any such duty of care is expressly excluded

6.26 Elimination

- a. The Ministry may exclude an Applicant from participating in the RFP if the Ministry has evidence of any of the following, and is considered by the Ministry to be material to the RFP:
 - i. the Applicant has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP
 - ii. the Proposal contains a material error, omission or inaccuracy
 - iii. the Applicant is in bankruptcy, receivership or liquidation
 - iv. the Applicant has made a false declaration
 - v. there is a serious performance issue in a historic or current contract delivered by the Applicant
 - vi. the Applicant has been convicted of a serious crime or offence
 - vii. there is professional misconduct or an act or omission on the part of the Applicant which adversely reflects on the integrity of the Applicant
 - viii. the Applicant has failed to pay taxes, duties or other levies
 - ix. the Applicant represents a threat to national security or the confidentiality of sensitive government information
 - x. the Applicant is a person or organisation designated as a terrorist by New Zealand Police.

6.27 Ministry's additional rights

- a. Despite any other provision in the RFP the Ministry may, on giving due notice to Applicants:
 - i. amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP
 - ii. make any material change to the RFP (including any change to the timeline, Requirements or Evaluation Approach) on the condition that Applicants are given a reasonable time within which to respond to the change.
- b. Despite any other provision in the RFP the Ministry may:
 - i. accept a late Proposal if it is the Ministry's fault that it is received late
 - ii. in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Applicants. The Ministry will not accept a late Proposal if it considers that there is risk of collusion on the part of an Applicant, or the Applicant may have knowledge of the content of any other Proposal
 - iii. in exceptional circumstances, answer a question submitted after the Deadline for Questions, if applicable
 - iv. accept or reject any Proposal, or part of a Proposal
 - v. accept or reject any non-compliant, non-conforming or alternative Proposal
 - vi. decide not to accept the lowest priced conforming Proposal unless this is stated as the Evaluation Approach
 - vii. decide not to enter into a Contract with any Applicant
 - viii. call for additional RFP and/or re-advertise the RFP
 - ix. liaise or negotiate with any Applicant without disclosing this to, or doing the same with, any other Applicant
 - x. provide or withhold from any Applicant information in relation to any question arising in relation to the RFP. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to an Applicant, is inappropriate to supply at the time of the request or cannot be released for legal reasons

- xi. amend the Proposed Contract at any time, including during negotiations with a shortlisted Applicant
- xii. waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so.
- xiii. conduct a financial check on any Applicant submitting an RFP response
- xiv. obtain similar goods/services from any third party and not deal exclusively with any Applicant under this RFP process
- xv. meet with any Applicant(s) before and/or after the RFP closes and prior to the award of any contract.

6.28 New Zealand law

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

6.29 Disclaimer

- a. The Ministry 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 Applicant or any other person in respect of the RFP process.
- b. Nothing contained or implied in the RFP, or RFP process, or any other communication by the Ministry to any Applicant shall be construed as legal, financial or other advice. The Ministry has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.
- c. To the extent that liability cannot be excluded, the maximum aggregate liability of the Ministry, its agents and advisors is \$1.
- d. Those submitting RFP responses will be deemed to have:
 - i. Examined this RFP and all documents referenced (if any);
 - ii. Considered all the risks, contingencies and other circumstances that may have an effect on their RFP response; and
 - iii. Satisfied themselves as to the correctness and sufficiency of their RFP response, including their Proposals for the amount and calculation of financial support.

6.30 Precedence

- a. Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
 - i. Section 1, paragraph 1.7
 - ii. Section 6 (RFP-Terms)
 - iii. all other Sections of this RFP document
 - iv. any additional information or document provided by the Ministry to Applicants through the Ministry's Point of Contact.
- b. If there is any conflict or inconsistency between information or documents having the same level of precedence the later information or document will prevail.

Defined Terms

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

Applicant	A person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Applicant includes its officers, employees, contractors, consultants, agents and representatives. The term Applicant differs from a supplier, which is any other business in the market place that does not submit a Proposal.
Business Day	Any week day 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.
Competitors	Any other business that is in competition with an Applicant either in relation to the goods or services sought under the RFP or in general.
Confidential Information	<p>Information that:</p> <ol style="list-style-type: none"> is by its nature confidential is marked by either the Ministry or an Applicant as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', classified' and/or 'restricted' is provided by the Ministry, an Applicant, or a third party in confidence the Ministry or an Applicant knows, or ought to know, is confidential. <p>Confidential information does not cover information that is in the public domain through no fault of either the Ministry or an Applicant.</p>
Conflict of Interest	<p>A Conflict of Interest arises if an Applicant's personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to the Ministry under the RFP or in the provision of the goods or services. It means that the Applicant's independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:</p> <ol style="list-style-type: none"> actual: where the conflict currently exists potential: where the conflict is about to happen or could happen, or perceived: where other people may reasonably think that a person is compromised.
Contract	The written Contract/s entered into by the Ministry and Successful Applicant/s for the delivery of the Requirements.
Contract Award Notice	Government Rules of Sourcing, Rule 45 requires a Ministry to publish a Contract Award Notice on GETS when it has awarded a contract that is subject to the Rules.
Deadline for Proposals	The deadline that Proposals are to be delivered or submitted to the Ministry as stated in Section 1, paragraph 1.2.
Evaluation Approach	The approach used by the Ministry to evaluate Proposals as described in Section 3 and in Section 6 (as varied by Section 1, paragraph 1.6, if applicable).
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.

Key Objectives	The objectives listed under the heading ‘Key Objectives’ in Section 2 of this RFP.
Offer Validity Period	The period of time when a Proposal (offer) is held open by the Applicant for acceptance by the Ministry as stated in Section 1, paragraph 1.6.
Point of Contact	The Ministry and each Applicant are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. The Ministry’s Point of Contact is identified in Section 1, paragraph 1.3. The Applicant’s Point of Contact is identified in its Proposal.
Proposal	<p>The response an Applicant submits in reply to the RFP. It comprises the Response Form, the Applicant’s bid, financial and pricing information and all other information submitted by an Applicant.</p> <p>Where the context allows, each reference to the Proposal is to be read as a reference to the Proposal insofar as it relates to each individual international airfreight route for which the Applicant has made a bid in its response to the RFP, with the intention being that the Ministry be able to negotiate and/or accept the Proposal separately in respect of each route, as contemplated in Section 2.4 of this RFP.</p>
Proposed Contract	The Contract terms and conditions proposed by the Ministry for the delivery of the Requirements as described in Section 5.
RFP	Means the Request for Proposal.
Request for Proposal (RFP)	The RFP comprises this RFP document (including the RFP-Terms) and any other schedule, appendix or document attached to this RFP, and any subsequent information provided by the Ministry to Applicants through the Ministry’s Point of Contact.
RFP-Terms	Means the Request for Proposal - Process, Terms and Conditions as described in Section 6.
RFP Process, Terms and Conditions (aka RFP-Terms)	The government’s standard process, terms and conditions that apply to RFPs as described in Section 6. These may be varied at the time of the release of the RFP by the Ministry in Section 1, paragraph 1.6. These may be varied subsequent to the release of the RFP by the Ministry on giving notice to Applicants.
Requirements	The goods and/or services described in Section 2 which the Ministry intends to procure.
Response Form	The form and declaration prescribed by the Ministry and used by an Applicant to respond to the RFP, duly completed and submitted by an Applicant as part of the Proposal.
Successful Applicant	Following the evaluation of Proposals and successful negotiations, the Applicant/s who is awarded a Contract/s to deliver all or part of the Requirements.