



**MINISTRY OF SOCIAL  
DEVELOPMENT**  
TE MANATŪ WHAKAHIATO ORA

**National Contracts  
Service Delivery**

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# Call for Registrations of Interest



## IRRS Housing Services Auckland

MSD 2014.035

ROI released: 11/12/2014

Deadline for Questions: 15/01/2015

Deadline for Registrations: 05/02/2015

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# This opportunity in a nutshell

## What we need

The Ministry of Social Development (MSD) seeks to engage providers to deliver additional social housing in Auckland from July 2015. The aim of these Services is to provide additional social housing places in the high demand Auckland market for prospective tenants from the MSD Housing Register, over and above the current availability of social housing places.

MSD seeks to purchase these additional social housing places under different contractual arrangements (in time) e.g. guaranteed tenancies, negotiated length of contract term, different payments to reflect improved client outcomes, where this certainty of income allows tenancy managers options to develop or partner in development of properties for social housing, or enter long term lease or loan arrangements.

MSD will consider any other likely components of the proposed payment fee over the proposed contract period required to provide viability for additional housing supply in return for innovative proposals.

Registrations of interest are sought for properties in the Auckland area available by the end of 2018.

An ROI briefing session will be held in Auckland on Tuesday 16 December. Details of how to register for this session are provided under Section 1.3 of this document.

## What we don't want

MSD is not seeking:

- Proposals for services / properties outside of the Auckland area or for unspecified properties; or
- Proposals involving existing social housing properties. Current IRRS contracts will remain in place for existing social housing properties and current properties where sitting tenants may vacate

## What's important to us

MSD is seeking innovative proposals to increase the number of social housing places in Auckland. The aim is to enable supply to better match our requirements. Because the demographics of the households seeking social houses places in the Auckland region are most commonly elderly, sole parents with a single child, and singles with health and disability conditions, preference will be given to proposals for single and two bedroom homes. Preference will also be given to proposals for large houses of 5+ bedrooms. These places will be used for large extended families, households that are often currently living in overcrowded situations.

The properties for this Service are to be provided by a tenancy manager who must be a registered Community Housing Provider (CHP) or able to achieve registration as a CHP. Third party property owners may partner with a CHP as tenancy manager.

## Why should you bid?

This is an opportunity to offer to partner with MSD to help assist people with high housing needs to access affordable and well maintained housing in the high demand Auckland market.

MSD will consider funding beyond current operational IRRS funding eg. guaranteed tenancies, negotiated length of contract term, different payments for improved client outcomes, to provide viability for additional housing supply.

## A bit about us

The Ministry of Social Development (MSD) helps New Zealanders to help themselves to be safe, strong and independent. We administer over \$23.3 billion in government expenditure and provide services and assistance to more than 1.1 million New Zealanders and 110,000 families.

We achieve our purpose through providing:

- statutory care and protection of children and young people, youth justice services and adoption services
- funding for community service providers
- employment support
- income support including payments, entitlements and New Zealand Superannuation
- social housing assessments and services
- access to concessions and discounts for senior citizens, families and low-income New Zealanders
- student allowances and student loans
- information, knowledge and support for families and communities
- campaigns that challenge antisocial attitudes and behaviour
- services to uphold the integrity of the welfare system and minimise the debt levels of people we work with
- leadership across the social sector.

# SECTION 1: Key information



## 1.1 Context

- a. This is an invitation to suitably qualified suppliers to submit a Registration for the IRRS Housing Services Auckland contract opportunity.
- b. This ROI is the first step in a multi-step procurement process. Following evaluation shortlisted Respondent/s will be invited to submit a full proposal in response to a Request for Proposals (RFP). This document deals only with the first step i.e. the ROI process.
- c. 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 Registration in response to the ROI. 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 Registration.*' Definitions are at the end of [Section 4](#).



## 1.2 Our timeline

- a. Here is our timeline for this ROI.

Step in ROI process:	Date:
Deadline to register for ROI briefing session:	15/12/2014
Date of the ROI briefing session:	16/12/2014
Deadline for Questions from suppliers:	15/01/2015
Deadline for the Buyer to answer supplier's questions:	20/01/2015
<b>Deadline for Registrations:</b>	<b>12:00pm 05/02/2015</b>
Respondents notified of shortlisting:	20/03/2015
RFP released to shortlisted supplier/s:	<b>Late March/ Early April 2015</b>

- 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. If you would like to attend our ROI briefing session (to be held in Auckland) please email our Point of Contact to register by **15/12/2014**.
- c. **Our Point of Contact**  
**Name:** Jonathon Fraser  
**Title/role:** Regional Contracts Manager  
**Email address:** jonathon.fraser001@msd.govt.nz



## 1.4 Developing and submitting your Registration

- a. This is an open tender process. The ROI sets out the step-by-step process and conditions that apply.
- b. Take time to read and understand the ROI. In particular:
  - i. develop a strong understanding of our Requirements detailed in [Section 2](#).
  - ii. in structuring your Registration consider how it will be evaluated. [Section 3](#) describes our Evaluation Approach.
- c. For helpful hints on tendering and access to a supplier resource centre go to:

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[www.procurement.govt.nz / for suppliers](http://www.procurement.govt.nz/for-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 Registration you must use the Response Form provided [Appendix A](#). This is a Microsoft Word document that you can download.
- 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. Having done the work don't be late – please ensure you get your Registration to us before the Deadline for Registration!



### 1.5 Address for submitting your Registration

- a. Registrations must be submitted by email/electronically to the following address:  
[Jonathon.fraser001@msd.govt.nz](mailto:Jonathon.fraser001@msd.govt.nz)
- b. Registrations sent by post or fax, or hard copy delivered to our office, will not be accepted.



### 1.6 Our ROI Process, Terms and Conditions

- a. The ROI is subject to the government's standard ROI Process, Terms and Conditions (shortened to ROI-Terms) described in Section 4.
- b. This ROI and associated documents are subject to Government budget approval and any required legislative changes. Consequently these documents and the ROI, subsequent RFP and contracting process are conditional on that funding being available and any required legislative changes being made, and are subject to change, variation or withdrawal.



### 1.7 Later changes to the ROI or ROI process

- a. If, after publishing the ROIs, we need to change anything about the ROIs, or ROI process, or want to provide suppliers with additional information we will let all suppliers know by placing a notice on the Government Electronic Tenders Service (GETS) at [www.gets.govt.nz](http://www.gets.govt.nz)
  - b. If you downloaded the ROI from GETS you will automatically be sent notifications of any changes through GETS by email.
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# SECTION 2: Our Requirements

## 2.1 Background

The Government has committed to increased funding of \$162 million for social housing places over the next three years. The extra places for households that require social housing is expected to come from a mix of improved Housing New Zealand efficiency in availability of current properties, repair and rebuild in Christchurch, lifting HNZ build rate in high demand areas, and growth in properties provided by Community Housing Providers (CHPs).

MSD has been responsible for the purchasing of IRRS tenancies since April 2014 and in that time (to the end of October 2014) an additional 328 IRRS places have been made available for high need households.

Current IRRS contracts offer both MSD and Community Housing Providers (CHPs) flexibility in what properties are offered or accepted. The Income Related Rent Subsidy is tied to current market rent.

In the high demand Auckland market, MSD now also seeks to purchase IRRS places with additional funding under different contractual arrangements (in time) eg. guaranteed tenancies, negotiated length of contract term, or different payments to reflect improved client outcomes.

In return for innovative proposals MSD will consider any likely components of the proposed payment fees over the proposed contract period required to provide viability for additional housing supply.

This certainty of income will allow CHPs options to develop or partner in development of properties for social housing, or enter long term lease or loan arrangements. This will increase the overall number of social housing places.

Current IRRS contracts will remain in place for existing social housing properties and current properties where sitting tenants may vacate.

## 2.2 What we are buying and why

This ROI is seeking additional properties for Income Related Rent tenancies for households from the MSD Housing Register in the Auckland area. The properties for this Service are to be provided by a tenancy manager who must be a registered Community Housing Provider (CHP) or able to achieve registration as a CHP. Third party property owners may partner with a CHP as tenancy manager.

MSD is seeking innovative proposals to increase social housing places in Auckland with a focus on where current supply does not match demand.

Innovative proposals could include, but are not limited to, such approaches as shared accommodation for elderly, relocation of houses, temporary housing on unutilised land, and building extensions to current properties.

Preference is for properties to meet the needs of households looking for single and two bedroom properties, where the demographics of the households are typically: elderly, sole parents with a single child, singles with health and disability conditions or low income.

Also preferred are proposals that cover large house of 5+ bedrooms where households are typically large extended families, and these households are currently living in overcrowded situations.

Preference is for proposals that cover affordable suburbs, however due to high demand for social housing across Auckland any proposals will be considered.

Table One below sets out the waitlist (MSD Housing Register) by number of bedrooms required and by Auckland local board as at 30 September 2014. Areas highlighted green represent the priority areas for MSD in this RFP:

*Table One: Waitlist by bedrooms required and Auckland local board – 30 September 2014*

Auckland City Board	Bedrooms required						Total
	1	2	3	4	5+	To be verified	
Albert - Eden	101	47	34	13	7	0	202
Devonport - Takapuna	19	8	*	*	*	0	35
Franklin	16	23	*	*	*	0	57
Henderson - Massey	74	120	63	44	42	0	343
Hibiscus and Bays	16	9	*	*	0	0	31
Howick	15	27	10	11	6	0	69
Kaipatiki	30	24	24	14	7	0	99
Mangere - Otahuhu	57	172	111	57	28	0	425
Manurewa	39	107	68	30	17	0	261
Maungakiekie - Tamaki	81	98	62	43	24	0	308
Orakei	23	11	6	*	*	0	46
Otara - Papatoetoe	41	103	71	47	20	0	282
Papakura	26	71	35	32	10	1	175
Puketapapa	34	50	47	25	18	0	174
Rodney	7	*	*	*	*	0	15
Upper Harbour	7	*	*	*	*	0	17
Waiheke	6	0	0	0	0	0	6
Waitakere Ranges	18	37	31	6	7	0	99
Waitemata	75	29	*	*	0	0	117
Whau	80	93	39	23	25	0	260
Unknown	78	35	24	*	*	0	152
<b>Grand total</b>	<b>843</b>	<b>1,074</b>	<b>662</b>	<b>371</b>	<b>222</b>	<b>1</b>	<b>3,173</b>

Registrations of Interest are sought for innovative solutions that match these household needs. This can be both a mix of short term solutions (3-12 months) and longer term options with properties available by the end of 2018.



## 2.3 What we require: the solution

MSD requires Respondents who can broadly describe how they would provide additional properties for Income Related Rent tenancies, including:

- 2.3.1 a schedule of potential properties by location (at suburb or area level), number of bedrooms, general condition and availability date. Respondents should note if there are any specific modifications or other aspects to the property
- 2.3.2 an expected contract term
- 2.3.3 the expected household characteristics for which they will provide tenancy services
- 2.3.4 Any further services that respondents would provide to households over and above standard tenancy management services.

## 2.4 What we require: capacity

MSD requires Respondents that are able to demonstrate:

- 2.4.1 the proposed tenancy manager is a registered Community Housing Provider (CHP) or able to achieve registration as a CHP and meet the required tenancy performance standards (the performance standards and guidelines are may be viewed at: <http://www.shu.govt.nz/chra-home/chra-performance-standards-and-guidelines/> ).

## 2.5 What we require: pricing structure

MSD requires Respondents to indicate the types of cost / fee structure proposed as part of their Registration of Interest, including:

- 2.5.1 any likely components of the proposed payment fees over the proposed contract period

# SECTION 3: Our Evaluation Approach

## 3.1 Evaluation model

The evaluation model that will be used to shortlist Respondents is weighted attribute (weighted criteria).

## 3.2 Evaluation criteria

Registrations will be evaluated on their merits according to the following evaluation criteria and weightings.

Criterion	Weighting
<b>1. Proposed solution :</b> How Respondents will provide additional properties for Income Related Rent tenancies appropriate to the demographics of the current MSD Housing Register	<b>100%</b>
<b>2. Respondent Capability:</b> Community Housing Provider registration (or ability to achieve registration) of tenancy manager	<b>[Yes / No]</b>
<b>3. Pricing Structure:</b> Innovative proposals that reflect value for money  (to be assessed in conjunction with the weighted criterion in terms of overall suitability)	<b>Not weighted</b>
<b>Total weightings</b>	<b>100%</b>

## 3.3 Scoring

The following scoring scale will be used in evaluating Registrations. Scores by individual panel members may be modified through a moderation process across the whole evaluation panel.

Rating	Definition	Score
<b>EXCELLENT</b> significantly exceeds the criterion	Exceeds the criterion. Exceptional demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. The Registration identifies factors that will offer potential added value, with supporting evidence.	<b>5</b>
<b>GOOD</b> exceeds the criterion in some aspects	Satisfies the criterion with minor additional benefits. Above average demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. The Registration identifies factors that will offer potential added value, with supporting evidence.	<b>4</b>
<b>ACCEPTABLE</b> meets the criterion in full, but at a minimal level	Satisfies the criterion. Demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource, and quality measures required to meet the criterion, with supporting evidence.	<b>3</b>
<b>MINOR RESERVATIONS</b> marginally	Satisfies the criterion with minor reservations. Some minor reservations of the Respondent's relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no	<b>2</b>

deficient	supporting evidence.	
<b>SERIOUS RESERVATIONS</b> significant issues that need to be addressed	Satisfies the criterion with major reservations. Considerable reservations of the respondent's relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	<b>1</b>
<b>UNACCEPTABLE</b> significant issues not capable of being resolved	Does not meet the criterion. Does not comply and/or insufficient information provided to demonstrate that the Respondent has the ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	<b>0</b>

# SECTION 4: ROI 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 ROI Process, Terms and Conditions (shortened to ROI-Terms) which apply to this procurement. Any variation to the ROI-Terms will be recorded in Section 1, [paragraph 1.6](#). Check to see if any changes have been made for this ROI.
- 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 Registration in response to the ROI. 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 Registration.*' [Definitions](#) are at the end of this section.
- If you have any questions about the ROI-Terms please get in touch with our [Point of Contact](#).

## Standard ROI process



### Preparing and submitting a Registration

#### 4.1 Preparing a Registration

- a. Respondents are to use the Response Form provided and include all information requested by the Buyer in relation to the ROI.
- b. By submitting a Registration the Respondent accepts that it is bound by the ROI Process, Terms and Conditions (ROI-Terms) contained in Section 4 (as varied by Section 1, paragraph 1.6, if applicable).
- c. Each Respondent will:
  - i. examine the ROI and any documents referenced in the ROI and any other information provided by the Buyer
  - ii. if appropriate, obtain independent advice before submitting a Registration
  - iii. satisfy itself as to the correctness and sufficiency of its Registration.
- d. There is no expectation or obligation for Respondents to submit Registrations in response to the ROI 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 Registration.



#### 4.2 Respondents' Deadline for Questions

- a. Each Respondent should satisfy itself as to the interpretation of the ROI. If there is any perceived ambiguity or uncertainty in the ROI document/s Respondents should seek clarification before the Deadline for Questions.
- b. All requests for clarification must be made by email to the Buyer's Point of Contact. The Buyer will respond to requests in a timely manner, but not later than the deadline for the Buyer to answer Respondent questions in Section 1, paragraph 1.2.a, if applicable.
- c. 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.

- d. 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.



### 4.3 Submitting a Registration

- a. Each Respondent is responsible for ensuring that its Registration is received by the Buyer at the correct address on or before the Deadline for Registrations. The Buyer will acknowledge receipt of each Registration.
- b. The Buyer intends to rely on the Respondent's Registration and all information provided by the Respondent (e.g. in correspondence). In submitting a Registration and communicating with the Buyer each Respondent should check that all information it provides to the Buyer 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. Where the Buyer requires the Registration to be delivered in hard and soft copies, the Respondent is responsible for ensuring that both the hard and soft copies are identical.



## Assessing Registrations

### 4.4 Evaluation panel

- a. 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 Registration, or any aspect of any Registration.

### 4.5 Third party information

- a. 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 Registration.
- b. Each Respondent is to ensure that all referees listed in support of its Registration agree to provide a reference.
- c. 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.



### 4.6 Buyer's clarification

- a. The Buyer may, at any time, request from any Respondent clarification of its Registration as well as additional information about any aspect of its Registration. The Buyer is not required to request the same clarification or information from each Respondent.
- b. 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 Registration.
- c. 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 Registration and may eliminate the Registration from the process.



### 4.7 Evaluation and shortlisting

- a. The Buyer will base its initial evaluation on the Registrations submitted in response to the invitation. This evaluation will be in accordance with the Evaluation Approach set out in

the ROI. The Buyer may adjust its evaluation of a Registration following consideration of any clarification or additional information as described in paragraphs 4.6 and 4.7.

- b. In deciding which Respondent/s to shortlist the Buyer may take into account any of the following additional information:
  - i. the results from due diligence
  - ii. any matter that materially impacts on the Buyer's trust and confidence in the Respondent
  - iii. any relevant information that the Buyer may have in its possession.
- c. 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 Registration, 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 ROI process the Buyer will not make public the names of the shortlisted Respondents.



#### 4.8 Respondent's debrief

- a. At any time after shortlisting Respondents, the Buyer will offer 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 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 Registration was or was not successful
  - ii. explain how the Registration performed against the pre-conditions (if applicable) and the evaluation criteria
  - iii. indicate the Registration's relative strengths and weaknesses
  - iv. explain, in general terms, the relative advantage/s of the shortlisted Registration/s
  - v. seek to address any concerns or questions from the Respondent
  - vi. seek feedback from the Respondent on the ROI process.



#### 4.9 Issues and complaints

- a. A Respondent may, in good faith, raise with the Buyer any issue or complaint about the ROI, or the ROI process at any time.
- b. The Buyer will consider and respond promptly and impartially to the Respondent's issue or complaint.
- c. The Buyer and Respondent each agree to act in good faith and use its best endeavours to resolve any issue or complaint that may arise in relation to the ROI.
- d. 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 ROI process or future contract opportunities.



## Standard ROI conditions

#### 4.10 Buyer's Point of Contact

- a. All enquiries regarding the ROI 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 ROI.
- b. Only the Point of Contact, and any authorised person of the Buyer, are authorised to communicate with Respondents regarding any aspect of the ROI. The Buyer will not be bound by any statement made by any other person.
- c. 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.
- d. 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 ROI.

#### **4.11 Conflict of Interest**

- a. 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 ROI process. A material Conflict of Interest may result in the Respondent being disqualified from participating further in the ROI process.

#### **4.12 Ethics**

- a. 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 ROI.
- b. A Respondent who attempts to do anything prohibited by paragraphs 4.10.a and d. and 4.12.a. may be disqualified from participating further in the ROI.
- c. The Buyer reserves the right to require additional declarations, or other evidence from a Respondent, or any other person, throughout the ROI process to ensure probity of the ROI process.

#### **4.13 Anti-collusion and bid rigging**

- a. Respondents must not engage in collusive, deceptive or improper conduct in the preparation of their Registrations or other submissions or in any discussions with the Buyer. Such behaviour will result in the Respondent from being disqualified from participating further in the ROI process. The Respondent warrants that its Registration has not been prepared in collusion with a Competitor.
- b. 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 Registration.

#### **4.14 Confidential Information**

- a. The Buyer and Respondent will each take reasonable steps to protect Confidential Information and, subject to paragraph 4.14.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.
- b. The Buyer and Respondent may each disclose Confidential Information to any person who is directly involved in the ROI 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 ROI.
- c. Respondents acknowledge that the Buyer's obligations under paragraph 4.14.a. are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, parliamentary or constitutional convention and any other obligations imposed by the 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.

#### **4.15 Confidentiality of ROI information**

- a. For the duration of the ROI, to the date of the announcement of the Successful Respondent, or the end of the procurement process, the Respondent agrees to keep the ROI strictly confidential and not make any public statement to any third party in relation to any aspect of the ROI, the ROI process or the award of any Contract without the Buyer's prior written consent.
- b. A Respondent may disclose information relating to the ROI to any person described in paragraph 4.14.b. but only for the purpose of participating in the ROI. 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 ROI.

#### **4.16 Costs of participating in the ROI process**

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

#### **4.17 Ownership of documents**

- a. The ROI and its contents remain the property of the Buyer. All Intellectual Property rights in the ROI remain the property of the Buyer or its licensors. The Buyer may request the immediate return or destruction of any or all ROI documents and any copies. Respondents must comply with any such request in a timely manner.
- b. All documents forming the Registration will, when delivered to the Buyer, become the property of the Buyer. Registrations will not be returned to Respondents at the end of the ROI process.
- c. Ownership of Intellectual Property rights in the Registration 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 Registration for any purpose related to the ROI process.

#### **4.18 No binding legal relations**

- a. Neither the ROI, nor the ROI process, creates a process contract or any legal relationship between the Buyer and any Respondent, except in respect of:
  - i. the Respondent's declaration in its Registration
  - ii. the Respondent's statements, representations and/or warranties in its Registration and in its correspondence with the Buyer
  - iii. the Evaluation Approach to be used by the Buyer to assess Registrations as set out in Section 3, and in the ROI-Terms (as varied by Section 1, paragraph 1.6, if applicable)
  - iv. the standard ROI conditions set out in paragraphs 4.10 to 4.23
  - v. any other matters expressly described as binding obligations in Section 1, paragraph 1.6.
- b. Each exception in paragraph 4.18.a. is subject only to the Buyer's reserved rights in paragraph 4.20.
- c. Except for the legal obligations set out in paragraph 4.18.a. no legal relationship is formed between the Buyer and any Respondent unless and until a Contract is entered into between those parties.

#### **4.19 Elimination**

- a. The Buyer may exclude a Respondent from participating in the ROI process if the Buyer has evidence of any of the following, and is considered by the Buyer to be material to the ROI:
  - i. the Respondent has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the ROI process
  - ii. the Registration contains a material error, omission or inaccuracy
  - iii. the Respondent is in bankruptcy, receivership or liquidation
  - iv. the Respondent has made a false declaration
  - v. there is a serious performance issue in a historic or current contract delivered by the Respondent
  - vi. the Respondent has been convicted of a serious crime or offence
  - vii. there is professional misconduct or an act or omission on the part of the Respondent which adversely reflects on the integrity of the Respondent





- viii. the Respondent has failed to pay taxes, duties or other levies
- ix. the Respondent represents a threat to national security or the confidentiality of sensitive government information
- x. the Respondent is a person or organisation designated as a terrorist by New Zealand Police.

#### **4.20 Buyer's additional rights**

- a. Despite any other provision in the ROI the Buyer may, on giving due notice to Respondents:
  - i. amend, suspend, cancel and/or re-issue the ROI, or any part of the ROI
  - ii. make any material change to the ROI (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.
- b. Despite any other provision in the ROI the Buyer may:
  - i. accept a late Registration if it is the Buyer's fault that it is received late
  - ii. in exceptional circumstances, accept a late Registration where it considers that there is no material prejudice to other Respondents. The Buyer will not accept a late Registration 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 Registration
  - iii. in exceptional circumstances, answer questions submitted after the Clarification Period ends
  - iv. accept or reject any Registration, or part of a Registration
  - v. accept or reject any non-compliant, non-conforming or alternative Registration
  - vi. decide not to enter into a Contract with any Respondent
  - vii. liaise or negotiate with any Respondent without disclosing this to, or doing the same with, any other Respondent
  - viii. provide or withhold from any Respondent information in relation to any question arising in relation to the ROI. 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
  - ix. amend the Proposed Contract at any time, including during negotiations with a shortlisted Respondent
  - x. waive irregularities or requirements in the ROI process where it considers it appropriate and reasonable to do so.
- c. The Buyer may request that a Respondent agrees to the Buyer:
  - i. selecting any individual element/s of the Requirements that is offered in a Registration and capable of being delivered separately, unless the Registration specifically states that the Registration, or elements of the Registration, are to be taken collectively
  - ii. selecting two or more Respondents to deliver the Requirements as a joint venture or consortium.

#### **4.21 New Zealand law**

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

#### **4.22 Disclaimer**

- a. 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 ROI process.



- b. Nothing contained or implied in the ROI, or ROI 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.
- c. To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer is \$1.

#### 4.23 Precedence

- a. Any conflict or inconsistency in the documents forming the ROI shall be resolved by giving precedence in the following descending order:
  - i. Section 1, paragraph 1.6
  - ii. Section 4 (ROI-Terms)
  - iii. all other Sections of this ROI document
  - iv. any additional information or document provided by the Buyer to Respondents through the Buyer's Point of Contact or GETS.
- 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.

## Definitions

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

<b>Advance Notice</b>	A notice published by the buyer on GETS in advance of publishing the ROI. An Advance Notice alerts the market to a contract opportunity. Where used, an Advance Notice forms part of the ROI.
<b>Business Day</b>	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.
<b>Buyer</b>	The Buyer is the government agency that has issued the call for Registrations of interest through a ROI 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.
<b>Competitors</b>	Any other business that is in competition with a Respondent either in relation to the goods or services sought under the ROI or in general.
<b>Confidential Information</b>	<p>Information that:</p> <ul style="list-style-type: none"><li>a. is by its nature confidential</li><li>b. is marked by either the Buyer or a Respondent as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', classified' and/or 'restricted'</li><li>c. is provided by the Buyer, a Respondent, or a third party in confidence</li><li>d. the Buyer or a Respondent knows, or ought to know, is confidential.</li></ul> <p>Confidential information does not cover information that is in the public domain through no fault of either the Buyer or a Respondent.</p>
<b>Conflict of Interest</b>	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 ROI 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:

	<ul style="list-style-type: none"> <li>a. actual: where the conflict currently exists</li> <li>b. potential: where the conflict is about to happen or could happen, or</li> <li>c. perceived: where other people may reasonably think that a person is compromised.</li> </ul>
<b>Contract</b>	The written contract/s entered into by the Buyer and Successful Respondent/s for the delivery of the Requirements.
<b>Deadline for Registration</b>	The deadline that Registrations are to be delivered or submitted to the Buyer as stated in Section 1, paragraph 1.2.
<b>Deadline for Questions</b>	The deadline for suppliers to submit questions to the Buyer as stated in Section 1, paragraph 1.2, if applicable.
<b>Evaluation Approach</b>	The approach used by the Buyer to evaluate Registrations as described in Section 3, the ROI-Terms (as varied by Section 1, paragraph 1, if applicable.).
<b>GETS</b>	Government Electronic Tenders Service <a href="http://www.gets.govt.nz">www.gets.govt.nz</a>
<b>GST</b>	The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.
<b>Intellectual Property</b>	All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.
<b>Point of Contact</b>	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 ROI 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 Registration.
<b>Registration</b>	The response a Respondent submits in reply to the Buyer's ROI. It comprises the Response Form, the Respondent's registration and all other information submitted by a Respondent.
<b>ROI</b>	Means the Buyer's call for Registrations of Interest.
<b>Registration of Interest</b>	The Buyer's call for Registrations of Interest comprises the Advance Notice (where used), this ROI document (including the ROI-Terms) and any other schedule, appendix or document attached to ROI, and any subsequent information provided by the Buyer to Respondents through the Buyer's Point of Contact or GETS.
<b>ROI-Terms</b>	Means the Process, Terms and Conditions that apply to this Registration of Interest Conditions as described in Section 4.
<b>ROI Process, Terms and Conditions (shortened to ROI-Terms)</b>	The government's standard terms and conditions that apply to ROIs as described in Section 4. These may be varied at the time of the release of the ROI by the Buyer in Section 1, paragraph 1.6. These may be varied subsequent to the release of the ROI by the Buyer on giving notice to Respondents.
<b>Requirements</b>	The goods and/or services described in Section 2 which the Buyer intends to purchase.
<b>Respondent</b>	A person, organisation, business or other entity that submits a Registration in response to the ROI. 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 Registration.'
<b>Response Form</b>	The form and declaration prescribed by the Buyer and used by a Respondent to respond to the ROI, duly completed and submitted by a Respondents as part of its Registration.