



Infrastructure Cook Islands

Request for Tender (RFT) (NZS 3910:2013)

## **Avatiu Stream Embankment Stabilisation**

Contract No. CK181908, Date of Release 22 October 2018

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# 1. Request for Tender (RFT) Overview

## 1.1 Scope of Works

Infrastructure Cook Islands (ICI) seeks to procure a suitable supplier to undertake the Avatiu Stream Embankment Stabilisation Contract works in Rarotonga, Cook Islands.

ICI is implementing the Avatiu Stream Embankment Stabilisation Project. This RFT is for the material supply and construction Contract for the implementation of the Contract works.

The Avatiu stream has seen increasing peak flows that have continued to damage and scour the roadside embankment putting the road at risk during times of heavy river flows. This road currently provides the only access route for residents who live inland, the Avatiu Water Intake, and supports underground high voltage lines that support power distribution around Rarotonga.

This stabilisation project is therefore critical to the security of the Rarotonga water supply, power supply, as well as the safety of road users.

The objective of the Project is to stabilise the roadside embankment and reduce the risk of its continued scouring and erosion when the Avatiu stream flow peaks. The project will also aim to improve the quality and safety of the road for users.

The scope of work is to construct the gabion retaining wall and related infrastructure and landscaping which has been designed by the Principal to achieve the project objectives and includes the following construction works:

- Clearing and removal of vegetation
- Supply and construction of gabion retaining wall
- Earthworks fill
- Road side and road crossing drainage
- Road pavement construction.

## 1.2 Important requirements

Infrastructure Cook Islands is committed to Health & Safety as well as the environment. As a result of this we require Contractors delivering physical works to comply with all Health & Safety, and Environmental requirements and conditions contained within this RFT.

## 1.3 Suitable Tenderers

Tenders from established construction companies that can demonstrate successful delivery of projects similar to this, working with multiple trades, stakeholder management, management of environmental impacts, as well as traffic management and Health and Safety.

As a Contractor in the field of civil, and structural Contracting you will be contributing to infrastructure development to meet the needs and aspirations of the people of the Cook Islands.

This project will both improve safety and improve the resilience and access of land transport in Rarotonga.

## 1.4 About Infrastructure Cook Islands

The Ministry of Infrastructure Cook Islands (ICI) is the government ministry that is responsible for the delivery operation and maintenance of infrastructure across the Cook Islands.

We design, build, maintain and operate infrastructure within the Cook Islands.

Our key activities are:

- Planning, funding and coordinating the CI Governments infrastructure capital works programme.
- Construction and management of Rarotonga's land transport assets including roads, road signs, footpaths, bridges/culverts, road side structures and road drainage. This includes the implementation of Road Safety improvements across the network.



- Construction and management of Rarotonga's water supply network including intakes, tanks, pumps, pipes and vales.
- Management of solid and hazardous waste through the Rarotonga Waste Facility including undertaking recycling and waste education and awareness programmes.
- Coastal Protection and water course management to protect public and private assets.
- Building Control and Electrical Regulation and compliance.
- Construction and Management of infrastructure capital works within the Pa Enea including; airports, water projects harbours, selected building as well as providing technical support relating to infrastructure development and asset management to the Pa Enea.
- Water resource monitoring including catchment and flood management.
- Development of infrastructure policy including design and construction standards within the Cook Islands.

ICI works with donor partners, Island Governments, other government departments, the private sector and the community to implement activities and projects and carry out operations and maintenance of public infrastructure, including the delivery of infrastructure projects in the Pa Enea.



## 2. Specific Tender Information

This Request for Tender (RFT) is an invitation to suitably qualified Tenderers to submit a Tender for the Avatiu Stream Embankment Stabilisation Contract works.

This RFT is a single-stage procurement process.

Words and phrases that have a special meaning are shown by the use of capitals e.g. RFT. Definitions are described at the back of this document.

### 2.1 RFT timeline

The timeline for this RFT is as below.

Description	Date
Publish date	22 October 2018
RFT briefing session	No briefing session planned
Deadline to register for briefing session or <b>Site inspection</b> details	Not applicable
Site visits	Refer to Section 2.9
Deadline for questions from Tenderers	5 November 2018
<b>Tender Closing Time</b>	<b>12:00pm (mid-day), 12 November 2018</b>
Anticipated date of Acceptance of Tender	3 December 2018

All dates and times are in Cook Islands.



## 2.2 How to contact us

All enquires must be directed to our Contact Officer. Infrastructure Cook Islands will manage all external communications through this Contact Officer.

Our Contact Officer is:

<b>Name</b>	Solomona Solomona, Procurement and Asset Manager
<b>Phone Number</b>	<a href="tel:+68220321">+(682) 20321</a>
<b>Email address</b>	<a href="mailto:solomona.solomona@cookislands.gov.ck">solomona.solomona@cookislands.gov.ck</a>

All questions specific to this RFT or the RFT process, terms and conditions should be submitted to the Contact Officer.

## 2.3 Tender Registration

Prospective Tenderers should register their interest to participate in this RFT process by registering on the Cook Islands Government E-Government Procurement portal at:

<https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>

In order to participate in the Tender process you will need to register as a supplier on the Portal. As part of registration you will need to specify relevant “Business Categories” for your business. This Tender will be listed under the following category:

<b>Category</b>	72141000
<b>Title</b>	Highway and road construction services

Prospective Tenderers should include this category when registering on the system.

Should there be any issues registering please advise the Contact Officer as soon as possible and alternative registration processes will be advised. The Contact Officer will acknowledge receipt of the registration.

Only registered Tenderers will receive notices directly as and when they are issued. It is the responsibility of the Tenderer to ensure they are properly registered for this RFT. The Principal reserves the right to extend the list of registered Tenderers beyond those who register interest in this RFT.

Once the Tender is published on the portal any suppliers registered will receive automatic advice of the Tender and a link to access Tender documentation via the Electronic Tender Account. Submission of Tenders will be through the same account.

Suppliers who register after the Tender is published will receive notification of the Tender upon registration.

## 2.4 Developing your Tender

This is a competitive Tender process. The RFT sets out the general process and conditions that apply.

Take time to read and understand the RFT. In particular:

- Develop a strong understanding of the Contract requirements.
- In structuring your Tender consider how it will be evaluated.



Complete the Non Price Response Template and the Price Response Template and provide the additional information required by those documents.

If anything is unclear or you have a question, ask us to explain but, please do so before the Deadline for Questions. Questions should only be submitted via the Contact Officer.

Check you have provided all information requested, and in the format and order asked for.

You must also complete and sign the Tender Form at Section 2 of the Price Response Template.

Please ensure your Tender is received prior to the Tender Closing Time.

## 2.5 Submitting your Tender

Infrastructure Cook Islands requires that your Tender be submitted in either hard copy or electronic copy, as specified below.

### Hard Copy Submission:

Hard copy submissions shall be in two separate envelopes, one containing the Non-Price Response (One original and one copy) and one containing the Price Response (One original and one copy). Submissions shall be packaged and labelled “CONFIDENTIAL” and have the following information clearly exhibited on the outside of each submission:

<b>Non Price Response</b>	Non Price Response Principal: Infrastructure Cook Islands Tender: [RFT title and Reference No] Tender: [Tenderer’s name] Tender [Closing time and date]
<b>Price Response</b>	Price Response Principal: Infrastructure Cook Islands Tender: [RFT title and Reference No] Tender: [Tenderer’s name] Tender [Closing time and date]

Hard copy Tenders must be placed in the Tender Box located at the Infrastructure Cook Islands Office, Main Road, Arorangi and be submitted in the format contained in the Non-Price Response Template, the Price Response Template and provide the additional information required by those documents, by the Tender Closing Time. Failure to do so may result in the Tender being disqualified.

### Electronic Copy Submission:

Electronic copy submissions shall be submitted as separate electronic files for the Non-Price Response and the Price Response. Files being submitted shall be named as below:

<b>Non Price Response – File(s)</b>	[Non Price-ICI-Tender Title and Reference No-Tenderer’s Name-File ? of ?]
<b>Price Response – File(s)</b>	[Price-ICI-Tender Title and Reference No-Tenderer’s Name-File ? of ?]

Electronic copy submissions must be submitted through the Electronic Tender Account by uploading the



Non-Price Response – File(s) and Price Response – File(s) as separate files to the Cook Islands Government E-Government Procurement portal at, the Asia Pacific Public Electronic Procurement Network e-GP System (refer <https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>).

Tenders should be submitted in the format contained in the Non-Price Response Template, the Price Response Template and provide the additional information required by those documents, by the Tender Closing Time. Failure to do so may result in the Tender being disqualified.

The Tender form shall be submitted in Microsoft Word format. Additional documents should be submitted in PDF format. Tenderers should seek approval for any other alternative electronic formats. If offers do not comply with the approved formats they will be deemed non-compliant and may not be accepted.

If the supplier is not able to access or upload Tender documents through the Cook Islands Government E-Government Procurement portal they should first seek guidance from the user guide using the following link

<https://in-tendhost.co.uk/adbprocurementnetwork/asp/BuyerProfiles>

or by clicking the “user guides” tab on the portal. Thereafter further guidance may be available through the Contact Officer.

If still not successful the Contact Officer will arrange a secure email Tender account for the upload of documents. The Electronic Tender Account will send a confirmation of receipt email in response to your electronic submission and the time of upload will be used to confirm the date and time of upload. If you do not receive a confirmation of receipt email within five working days please contact the Contact Officer for this Tender.

Tenders sent via fax, will not be accepted for evaluation.

## 2.6 RFT process, terms and conditions

The RFT is subject to the RFT Process, Terms and Conditions described in Section 4.

Probity is important, if Tenderers have any probity concern with regard to this particular procurement activity this should be communicated to Infrastructure Cook Islands immediately.

No gifts or entertainment of any nature will be permitted between any parties involved throughout the Tender process, including: Tenderers or potential Tenderers, Tender team members, evaluation team members, the Head of Agency, or any other member or organisation that may have an involvement with any aspect of the Tender process.

## 2.7 Later changes to the RFT or RFT process

If, after publishing the RFT, we need to change the RFT, or the RFT process, or provide Tenderers with additional information, we will supply the information to all registered suppliers via the default portal, the Asia Pacific Public Electronic Procurement Network e-GP System,

(refer <https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>)

And email to all registered Tenderers as a Notice to Tenderers.

Details of questions and answers provided during the Tender process will be logged in the Electronic Tender Account accessible by all registered Tenderers.



## 2.8 Other RFT documents

In addition to this RFT we refer to the following documents which are made available to Tenderers. These documents form part of this RFT and any subsequent Contract.

Description	Attached Documents
RFT & Contract Documents	<a href="#">Section A - RFT (this document)</a> <a href="#">Section B - Non Price Response Template</a> <a href="#">Section C - Price Response Template including the Schedule of Prices</a> <a href="#">Section D - Conditions of Contract based on NZS3910:2013</a> <a href="#">Section E – General Specifications</a> <a href="#">Section F – Technical Specifications</a> <a href="#">Appendix 01 - Additional Information</a>

## 2.9 Site visit

Where a Site visit is indicated below as mandatory, it must be attended before Tender Closing Time. A mandatory Site visit must be attended in the presence of Infrastructure Cook Islands nominated representative.

Date	Time	Is the Site visit mandatory?	Is an appointment to visit the Site required?
To be Confirmed	To be Confirmed	Yes	Yes. Tenderers may also visit the site(s) of their own accord in addition to attendance with ICI.

## 2.10 Site hazards list

An existing Site hazards list has been completed by Infrastructure Cook Islands and is included in Appendix 01 - Additional Information. This list shall not be considered a full and complete list of Site hazards and Tenderers are to inform themselves of the site hazards.

## 2.11 Offer validity period

By submitting a Tender, the Tenderer will be deemed to be representing that their offer will remain open for acceptance by Infrastructure Cook Islands for **60 Working Days** from the **Tender Closing Time**.



### 3. Tender Evaluation

The evaluation approach will be as below.

#### 3.1 Mandatory Conditions

The Mandatory Conditions have been drawn from the Conditions of Tendering in this RFT. Tenders that do not meet the Mandatory Conditions are deemed non-compliant, and may not proceed into Evaluation.

Criterion	Complies Yes / No
Tender must be completed in the format contained in Non Price Response Template (Section B) and Price Response Template (Section C).	
Tenders must be deposited in the required form in the Tender Box and/or the Electronic Tender Account by the closing time specified in the RFT	
Proposal and related documentation must be in the English language or if in Maori translated into English.	
Tenderers must Tender to provide the whole of the works/goods/services specified in the RFT.	
Tenders must be presented in hard copy and/or electronic copy format as specified in this RFT only.	
All prices must be in NZ dollars	

#### 3.2 Supplier selection method

The Supplier Selection Method that will be used is a weighted attributes method.



### 3.3 Evaluation attributes

The following evaluation attributes and weightings will be used:

Attributes	Definition	Weighting
<b>Local Procurement</b>	The Tenderer's proposed extent of local business involvement and use of local resources on this project.	2.5%
<b>Contract Terms</b>	The Tenderer's departures and acceptance of the Contract terms	2.5%
<b>Capability</b>	The Tenderer's current capability in areas relevant to the outputs being purchased	7.5%
<b>Skills</b>	The competence of the personnel that the Tenderer proposes to use in areas relevant to the outputs being purchased.	7.5%
<b>Methodology</b>	The procedures and method the Tenderer proposes to use to achieve the specified end result.	10%
<b>Track Record</b>	The Tenderer's record of delivering works or services to the quality standards required, on time and within budget.	10%
<b>Resources</b>	The equipment, subcontractors, including facilities and intellectual property that the Tenderer proposes to use to deliver the outputs.	Pass/Fail
<b>Health and Safety</b>	The ability of the Tenderer to meet the required Health and Safety standards.	Pass/Fail
<b>Financial Viability</b>	The Tenderer's ability to access the financial resources required to deliver the outputs to be purchased	Pass/Fail
<b>Price</b>		60%
	<b>Total Weightings</b>	<b>100%</b>



### 3.4 Grading scale

The following grading scale will be used in evaluating Tenders.

85, 90, 95, 100	Excellent (significantly exceeds the criterion)	Exceeds the criterion. Exceptional demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Response identifies factors that will offer significant potential added value, with supporting evidence.
65, 70, 75, 80	Very Good (exceeds the criterion in some aspects)	Satisfies the criterion with minor additional benefits. Above average demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Response identifies factors that will offer potential added value, with supporting evidence.
45, 50, 55, 60	Good (meets the criterion in full)	Satisfies the criterion in full. Demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with supporting evidence.
25, 30, 35, 40	Minor Reservations (marginally deficient)	Satisfies the criterion with minor reservations. Some minor reservations of the Tenderer's relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.
5, 10, 15, 20	Serious Reservations (significant issues that can't be addressed)	Only partially satisfies the criterion with major reservations. Considerable reservations of the Tenderer's relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.
0	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 Tenderer has the ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.

**Note:** Scoring a 'fail' on any attribute assessed on a pass/fail basis, or failing to score above 20 on any weighted attribute, will result in the Tenderer's offer being rejected and removed from any further evaluation.

### 3.5 Price

Infrastructure Cook Islands is under no obligation to check Tenders for errors or omissions.

If the price offered is substantially lower than other responses (an abnormally low bid), Infrastructure Cook Islands may seek to verify that the Tenderer is capable of carrying out the Contract Works and meeting all of the conditions of the Contract for the Tendered price. Where Infrastructure Cook Islands is not satisfied that the price Tendered is adequate to meet the obligations of the Contract, Infrastructure Cook Islands may at its sole discretion exclude the Tender from further evaluation.

If we discover price errors and/or omissions in your Tender, we will notify you. You may be allowed to correct such error and/or omission, so long as by the correction there would be no material prejudice to any other



submission (as determined by Infrastructure Cook Islands in its sole discretion), or you may be given the opportunity to:

- Confirm that your Tender remains open for acceptance notwithstanding the error; or
- Withdraw your Tender.

Acceptance of a Tender that contains errors will not invalidate the Contract formed by that acceptance.

### 3.6 Reference checking

Infrastructure Cook Islands may carry out reference checking to assist in determining whether the Tenderer can deliver the output described in their response. Reference checking will be carried with referees provided in the [Non Price Response Template](#). Referees should be available during the RFT evaluation period for telephone interviews.

The reference check will contain, but not necessarily be limited to, the following subjects:

- Compliance with Health, Safety and Environmental requirements.
- Compliance with quality standards.
- Completed on time.
- Completed within agreed budget.
- Responsive to client's requirements.
- Traffic management (if applicable).
- Dealing with difficulties.
- Length of time to closeout defects after practical completion.

Infrastructure Cook Islands reserves the right to use any other appropriate source of information to assist in the evaluation of the attribute including prior performance on Infrastructure Cook Islands projects.

### 3.7 Due diligence

In relation to Tenderers and/or preferred Tenderers we may carry out due diligence investigations. The findings will be taken into consideration in the evaluation process.

We may undertake the following due diligence:

- Other checks, e.g. Companies Office.
- Interview Tenderers.
- Request Tenderers make a presentation.
- Arrange site visits.
- Test products.
- Inspect audited accounts for the last three financial years.
- Undertake a credit check.
- Undertake a Police check for all named personnel.



## 4. RFT Process, Terms and Conditions

### 4.1 Interpretation

The provisions of Clause 1 of NZS 3910:2013 (as amended by any Special Conditions of Contract) shall apply to these RFT Process, Terms and Conditions.

### 4.2 Infrastructure Cook Islands Contact Officer

All enquiries regarding the RFT must be directed to Infrastructure Cook Islands Contact Officer. Tenderers must not directly or indirectly approach any representative of Infrastructure Cook Islands, or any other person, to solicit information concerning any aspect of the RFT.

Infrastructure Cook Islands will not be bound by any statement made by any person including the Contact Officer unless that statement is subsequently expressly incorporated into the Contract.

Infrastructure Cook Islands may change the Contact Officer at any time. Infrastructure Cook Islands will notify Tenderers of any such change. This notification may be posted on the Cook Islands Government Procurement website or sent by email.

### 4.3 Deadline for questions

Each Tenderer should satisfy itself as to the interpretation of the RFT. If there is any perceived ambiguity or uncertainty in the RFT document/s Tenderers should seek clarification before the Deadline for Questions.

If Infrastructure Cook Islands considers a request to be of sufficient importance to all Tenderers it may provide details of the question and answer to other Tenderers. In doing so Infrastructure Cook Islands may summarise the Tenderer's question, and will not disclose the Tenderer's identity. The question and answer will be distributed as per section 2.7. A Tenderer may withdraw a request for clarification at any time.

In submitting a request for clarification a Tenderer is to indicate, in its request, any information that is commercially sensitive. Infrastructure Cook Islands may modify a request to eliminate such commercially sensitive information, and publish this and the answer where Infrastructure Cook Islands considers it of general significance to all Tenderers. In this case, however, the Tenderer will be given an opportunity to withdraw the request or remove the commercially sensitive information.

### 4.4 Confidential information

Infrastructure Cook Islands is subject to the Official Information Act 2009. Information provided by Tenderers may be required to be disclosed under that Act.

Drawings, Specifications, Schedules and other written and technical information supplied to Tenderers shall not be used for purposes other than the preparation of a Tender without the approval of the Principal. Information submitted by a Tenderer shall be regarded as confidential and shall not be disclosed to a third party except as described within this RFT or with the prior written agreement of the Tenderer.

Tenderers are entitled to the release of their evaluation report on request. Any requests for evaluation reports of other Tenders must be processed under the Official Information Act 2009.

### 4.5 Information from Infrastructure Cook Islands

Any information provided by Infrastructure Cook Islands to Tenderers has been provided to assist Tenderers in preparing the Tender and in carrying out the Contract Works. Tenderers shall rely on the information provided by Infrastructure Cook Islands but must take responsibility for how such information is interpreted. Any identified errors or omission in the information provided by Infrastructure Cook Islands are to be advised immediately to Infrastructure Cook Islands.



## 4.6 Preparing a Tender

Tenderers are to use the Non Price Response Template and Price Response Templates provided in Section B and Section C and include all information requested by Infrastructure Cook Islands in relation to the RFT.

Tenderers who wish to respond to this RFT will have:

- Inspected the Site when required by section 2.9 Site Visit in the presence of Infrastructure Cook Islands nominated representative if required.
- Undertaken all reasonable and practicable investigations and measurements, and familiarise itself with the requirements of the RFT and relevant authorities.
- Examined the RFT and any documents referenced in the RFT and any other information provided by Infrastructure Cook Islands.
- Considered all risks, contingencies and other circumstances relating to the delivery of the Contract Works and include adequate provision in its Tender to manage such risks and contingencies.
- If appropriate, obtain independent advice before submitting a Tender.
- Satisfied itself as to the correctness and sufficiency of its Tender, including the Tendered Contract Price and the sustainability of the pricing making up the Contract Price.
- Ensured that pricing information is quoted in New Zealand Dollars (NZ\$) and inclusive of any required freight and all relevant costs to meet the Contract requirements.
- Documented in the Statement of Departures (see Section 5 of Non Price Response Template) all assumptions and qualifications made about the carrying out of the Contract Works, including any assumption that Infrastructure Cook Islands or a third party will deliver any aspect of the Contract Works or incur any cost related to the delivery of the Contract Works.

There is no expectation or obligation for Tenderers to submit Tenders in response to this RFT solely to remain on any prequalified or registered supplier list.

## 4.7 Alternative Tenders

Infrastructure Cook Islands may consider any alternative Tenders which fulfil Infrastructure Cook Islands requirements. Alternative Tenders must be submitted as a separate Tender clearly identified as an alternative Tender. Tenderers may be requested during the Tender evaluation period to submit additional information to facilitate evaluation of the alternative Tender.

## 4.8 Alternative and tagged Tenders

Tenders submitted subject to tags, conditions or endorsement may be considered as alternative Tenders. In respect of any alternatives, tags, conditions and endorsements (collectively known as Tender Tags), Infrastructure Cook Islands may at its sole discretion:

- Evaluate or reject such Tenders.
- Assign a price to any Tender Tags.
- Request that the Tenderer withdraws any Tender Tags without adjustment to the Tender price.
- Request that the Tenderer withdraws any Tender Tags with adjustment of the Tender price, provided that the adjustment is for an amount that would have been reasonably expected, if the Tender had been submitted without that Tender Tag.

All Tender Tags must be outlined in the Statement of Departures in the Non Price Response Template.

Infrastructure Cook Islands will not be bound by any Tender Tag unless such Tender Tag has been:

- Outlined in the Statement of Departures.
- Expressly agreed by Infrastructure Cook Islands and incorporated into the Contract other than the Contractor's Tender.



## 4.9 Requirements for Tender submission and pricing

Tenders must be prepared and submitted in the format provided within the response templates Non Price Response Template (Section B) and Price Response Template (Section C).

All Tenders and related documentation in respect of this RFT may be presented in the English or Maori language. Tenders presented in Maori or any other language must be provided with an English translation.

Tenderers must Tender to provide services or supply materials for the whole of the works/goods/services as specified in the Tender Specifications.

Tenderers must include the rates or percentages stated in the Price Response Template.

The Tenderer must include rates and prices for all items of work described in the Schedule of Prices. Items against which no rate or price is entered by the Tenderer will not be paid for by Infrastructure Cook Islands when the Contract is carried out and shall be deemed covered by other rates and prices in the Schedule of Prices.

Unless otherwise provided in the Price Response Template, the rates included in the Schedule of Prices shall be deemed to be fully inclusive of all allowances for On-site Overheads and for Off-site Overheads and Profit.

All prices must be in NZ dollars

## 4.10 Submitting a Tender

Each Tenderer is responsible for ensuring that its Tender is submitted as required before the [Tender Closing Time](#). Late Tenders will not be accepted.

Infrastructure Cook Islands intends to rely on all the information provided by the Tenderer (e.g. correspondence and negotiations). In submitting a Tender and communicating with Infrastructure Cook Islands the Tenderer should check that all information it provides is:

- True, accurate and complete, and not misleading in any material respect.
- Does not contain Intellectual Property that will breach a third party's rights.

Where Infrastructure Cook Islands stipulates an electronic two file RFT process, the following applies:

- The Tenderer must ensure that all financial information and pricing components of its Tender are provided in Price Response – File(s).
- The pricing information must be clearly marked as stated in Section 2.5. This is to ensure that the pricing information cannot be viewed when the Non Price Response is opened.

## 4.11 Third party information

Each Tenderer authorises Infrastructure Cook Islands to collect additional information from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of the RFT evaluation.

Each Tenderer must ensure that all referees listed in Non Price Response Template agree to provide a reference.

To facilitate discussions between Infrastructure Cook Islands and third parties each Tenderer waives any confidentiality obligations that would otherwise apply to information relevant to this Tender held by a third party, with the exception of commercially sensitive pricing information.

## 4.12 Conflict of Interest

Each Tenderer must complete the Conflict of Interest Declaration in the Non Price Response Template to disclose any potential or actual conflicts of interest that they may have or may be perceived to have, in respect of their responsibilities to the Principal and other parties should they be selected as the successful



Tenderer. Where potential or actual conflicts of interests are identified, the Tenderer must specify how this will be managed in order to provide assurance that it will not adversely impact the performance of any services. Tenderers must immediately inform Infrastructure Cook Islands should a Conflict of Interest arise during the RFT process. A material Conflict of Interest may result in the Tenderer being disqualified from participating further in the RFT process.

### 4.13 Ethics

Tenderers must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of Infrastructure Cook Islands.

Any Tenderer who attempts to influence the outcome of this RFT may be disqualified from participating further in the RFT process.

Infrastructure Cook Islands reserves the right to require additional declarations, or other evidence from a Tenderer, or any other person, throughout the RFT process to ensure probity of the RFT process.

### 4.14 Anti-collusion and bid rigging

Tenderers must not engage in collusive, deceptive or improper conduct in the preparation of their Tenders or other submissions or in any discussions or negotiations with Infrastructure Cook Islands. Such behavior will result in the Tenderer being disqualified from participating further in the RFT process. In submitting a Tender the Tenderer warrants that its Tender has not been prepared in collusion with a competitor.

Suspected collusive or anti-competitive conduct by Tenderers may be reported by Infrastructure Cook Islands to the appropriate authority.

### 4.15 Non-Resident Tenderer

In order for foreign companies to carry out business in the Cook Islands, an application for, and approval, must be sought from the Business Trade Investment Board (BTIB). Any fees associated with the registration are to be covered by the Tenderer. Tenderers should inform themselves of the registration process and confirm in their Tender that they are willing to register once a Letter of Acceptance is issued. Tenderers are solely responsible for obtaining approval for BTIB. Information can be requested from the BTIB office at [btib@cookislands.gov.ck](mailto:btib@cookislands.gov.ck).

### 4.16 Evaluation Panel

Infrastructure Cook Islands will convene an Evaluation Panel comprising members chosen for their relevant expertise and experience. In addition, Infrastructure Cook Islands may invite independent advisors to evaluate any Tenders, or any aspect of any Tenders.

### 4.17 Tender Clarification

Infrastructure Cook Islands may, at any time, request from any Tenderer clarification as well as additional information about any aspect of its Tender. Infrastructure Cook Islands is not required to request the same clarification or information from each Tenderer.

The Tenderer must provide the clarification or additional information in the format requested. Tenderers must endeavor to respond to requests in a timely manner. Infrastructure Cook Islands may take such clarification or additional information into account in evaluating the Tender.

Where a Tenderer fails to respond adequately or within a reasonable time to a request for clarification or additional information, Infrastructure Cook Islands may cease evaluation of its Tender and may eliminate that Tender from the RFT process if they are deemed non-compliant.



## 4.18 Evaluation

Infrastructure Cook Islands will base its initial evaluation on the Tenders submitted in response to the RFT. Infrastructure Cook Islands may adjust its evaluation of a Tender following consideration of any clarification or additional information.

Infrastructure Cook Islands may make enquiries regarding the Tenderer. Infrastructure Cook Islands may consider relevant information, obtained from an appropriate source of information, in the evaluation of the Tender. Infrastructure Cook Islands may verify with any third party any information included in the Tender or disclosed to Infrastructure Cook Islands in connection with the Tender.

## 4.19 Negotiations with preferred Tenderer(s)

Negotiations will not be permitted between the Tender/evaluation team and any prospective suppliers during the advertising period.

Infrastructure Cook Islands may at any time prior to acceptance of any Tender, negotiate with the preferred Tenderer(s) or any Tenderer following the conclusion of the advertising period. Infrastructure Cook Islands may invite a Tenderer to enter into negotiations with a view to finalising Contractual arrangements included within this RFT and the Tenderers submission.

If a Tenderer is selected as preferred Tenderer then such selection does not constitute an acceptance by Infrastructure Cook Islands of the Tenderer's response, or imply or create any obligation on Infrastructure Cook Islands to award the Contract to that Tenderer.

Infrastructure Cook Islands may at any time without being liable to the preferred Tenderer cease discussions with, and not award the Contract to, that Tenderer.

## 4.20 Elimination

Infrastructure Cook Islands may reject any Tender where:

- The Tenderer has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFT.
- The Tender contains a material error, omission or inaccuracy.
- The Tenderer is in bankruptcy, receivership or liquidation.
- The Tenderer has made a false declaration.
- There is a serious performance issue in a historic or current Contract delivered by the Tenderer.
- The Tenderer has been convicted of a serious crime or offence.
- There is professional misconduct or an act or omission on the part of the Tenderer which adversely reflects on the integrity of the Tenderer.

## 4.21 Infrastructure Cook Islands additional rights

Despite any other provision in the RFT, Infrastructure Cook Islands may, on giving due notice to Tenderers:

- Amend, suspend, cancel and/or re-issue the RFT, or any part of the RFT.
- Make any material change to the RFT (including any change to the Our Timeline, Our Requirements or Our Evaluation Approach).

Despite any other provision in the RFT Infrastructure Cook Islands may:

- In exceptional circumstances, accept a late Tender where it considers in its sole discretion that there is no material prejudice to other Tenderers.
- In exceptional circumstances, answer a question submitted after the Deadline for Questions, if applicable.
- Accept or reject any Tender, or part of a Tender.
- Accept or reject any alternative Tender.
- At any time prior to acceptance of any Tender, withdraw the Contract from Tender.



- Not accept the lowest priced, or highest scoring or any Tender.
- Decide not to enter into a Contract with any Tenderer.
- Liaise or negotiate with any Tenderer without disclosing this to, or doing the same with, any other Tenderer.
- Provide or withhold from any Tenderer information in relation to any question arising in relation to the RFT. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to a Tenderer, is inappropriate to supply at the time of the request or cannot be released for legal reasons.
- Amend the proposed Contract at any time, including during negotiations with a Tenderer.

## 4.22 Notification of outcome

Once both parties have agreed to the terms of the Contract and prior to the expiry of the Offer Validity Period the Principal will formally issue a Letter of Acceptance to the successful Tenderer.

At any point after conclusion of negotiations, but no later than 30 Working Days after the date the Contract is signed, Infrastructure Cook Islands will inform all unsuccessful Tenderers of the name of the successful Tenderer, if any. Infrastructure Cook Islands may make public the name of the successful Tenderer.

If no Tender has been accepted within the period stated, the Principal will notify all Tenderers that no Tender was accepted and may:

- Invite all Tenderers to provide additional information; and/or
- Re-advertise the RFT and extend the closing date of the Tender. Tenderers may either resubmit their Tender or provide additional information to support their existing Tender already received by the Principal

## 4.23 Issues and complaints

A Tenderer may, in good faith, raise with Infrastructure Cook Islands any issue or complaint about the RFT, or the RFT process at any time.

## 4.24 Costs of participating in the RFT process

Each Tenderer will meet its own costs associated with the preparation and presentation of its Tender and any negotiations.

## 4.25 Ownership of documents

The RFT and its contents remain the property of Infrastructure Cook Islands. All Intellectual Property rights in the RFT remain the property of Infrastructure Cook Islands or its licensors. Infrastructure Cook Islands may request the immediate return or destruction of any or all RFT documents and any copies. Tenderers must comply with any such request in a timely manner.

All documents forming the Tender will, when submitted to Infrastructure Cook Islands, become the property of Infrastructure Cook Islands. Tenders will not be returned to Tenderers at the end of the RFT process.

Ownership of Intellectual Property rights in the Tender remain the property of the Tenderer or its licensors. However, the Tenderer grants to Infrastructure Cook Islands a non-exclusive, non-transferable, perpetual license to retain, use, copy and disclose information contained in the Tender for any purpose related to this RFT process only.

## 4.26 Offer validity period

The Offer Validity Period is calculated from the Tender Closing Time. Tenders are to remain valid and open for acceptance by Infrastructure Cook Islands for the Offer Validity Period.



## 4.27 No binding legal obligations

No legal or other obligations shall arise between the Tenderer and Infrastructure Cook Islands in relation to the conduct or outcome of the Tender process unless both parties have agreed to the terms of the Contract, and until that Tenderer has received written notification of the acceptance of its Tender.



## 5. Definitions

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

Term	Definitions
<b>NZS3910:2013</b>	New Zealand Standard for Conditions of Contract for building and civil engineering construction (for definitions refer to 2.2 Definitions)
<b>Confidential Information</b>	Information that: <ul style="list-style-type: none"> <li>is by its nature confidential;</li> <li>is marked by either Infrastructure Cook Islands or a Tenderer as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', 'classified' and/or 'restricted';</li> <li>is provided by Infrastructure Cook Islands, a Tenderer, or a third party in confidence;</li> <li>Infrastructure Cook Islands or a Tenderer knows, or ought to know, is confidential.</li> </ul> Confidential information does not cover information that is in the public domain through no fault of either Infrastructure Cook Islands or a Tenderer.
<b>Tender Closing Time</b>	The deadline that Tenders are to be delivered or submitted to Infrastructure Cook Islands as stated in Section 2, under 2.2.
<b>Deadline for Questions</b>	The deadline for Tenderers to submit questions to Infrastructure Cook Islands as stated in Section 2, under 2.2. See also Section 4.3
<b>Evaluation Panel</b>	Infrastructure Cook Islands Evaluation Panel as per Section 4. Also known as the Tender Evaluation Team
<b>Procurement Portal</b>	Cook Islands Government E-Government Procurement portal at, the Asia Pacific Public Electronic Procurement Network e-GP System (refer <a href="https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home">https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home</a> ).
<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>Non Price Response Template</b>	The form to be used by a Tenderer to respond to the RFT non-price attribute requirements.
<b>Notices to Tenderers (NTT)</b>	Known as Notice to Tenderers (NTT) or Addenda
<b>Price Response Template</b>	The form to be used by a Tenderer to respond to the RFT Price attribute.
<b>Contact Officer</b>	Infrastructure Cook Islands Contact Officer is identified in Section 2. The Tenderer's Contact Officer is identified in its Tender.
<b>Proposed Contract</b>	The Contract terms and conditions proposed by Infrastructure Cook Islands for the carrying out of the Contract Works as described in Section 2.8.
<b>Response</b>	Tender submitted by the Tenderer.
<b>RFT</b>	Means Request for Tender.
<b>RFT-Terms</b>	Means the Request for Tender - Process, Terms and Conditions as described in Section 4.
<b>Supplier</b>	A person, business, company or organisation that supplies or can supply goods or services or works to Infrastructure Cook Islands.

