



PROJECT NEXT

NEXT GENERATION TICKETING

REQUEST FOR PROPOSAL – TICKETING SOLUTION
Part 2 – Engagement Process

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1. Introduction and overview of the RFP process

1.1. Request for Proposal Process Introduction

1.1.1. Introduction to Part 2

This Part 2 of the Request for Proposal (RFP) outlines the process for procuring the Ticketing Solution required for the National Ticketing Solution (NTS) and sets out the particular terms and conditions that will apply to the Request for Proposal process. This Part 2 should be read before submitting a response to this Request for Proposal.

Definitions that apply to this Part 2 are set out in section 7 *Definitions and interpretation on page 37*.

1.1.2. Procurement process for the Ticketing Solution

Project NEXT is the procurement phase of a long-term programme designed to procure, implement, and operate the National Ticketing Solution, which enables and processes payments for journeys on public transport services and with other authorised providers in New Zealand.

The Project NEXT procurement programme incorporates two separate procurements – one for the Ticketing Solution, and one for the dedicated Financial Services to support the Ticketing Solution.

The Ticketing Solution procurement involves two phases: a Registration of Interest (ROI) stage followed by this Request for Proposal stage (RFP).

Phase 1 commenced with the issue of the ROI in June 2018. The Buyer advised certain respondents to the ROI that it had been shortlisted (each a **Shortlisted Respondent**). Prior to this RFP being issued, each Shortlisted Respondent was invited to attend an interactive workshop involving that Shortlisted Respondent and the Buyer. That workshop is considered part of the ROI process and was governed by the terms and conditions of the ROI.

Phase 2 of the procurement process for the Ticketing Solution RFP will commence with the issue of this RFP and progress in accordance with the process set out in this Part 2 of the RFP. Only Shortlisted Respondents are invited to respond to this RFP. Each Shortlisted Respondent has been (or will be) given access to the Project NEXT RFP document set. In this Part 2, each Shortlisted Respondent that submits a response to the RFP will be referred to as a **"RFP Respondent"**.

The ROI contemplated that, in time, any contract awarded under the RFP process could be novated by the buyers to a shared services organisation. As the New Zealand Transport Agency (NZTA) will be performing the role of the shared services organisation in the post-procurement stages, it has been decided that it will also be the procuring party for the

purpose of this RFP procurement. Accordingly, in this Part 2, a reference to “Buyer” is a reference to NZTA. NZTA will be the party that signs any contract awarded under the RFP process.

RFP Overview

The Project NEXT RFP document set comprises four parts:

- Part 1 – Programme and Environment Overview
- Part 2 – Engagement Process (including RFP Terms and Conditions)
- Part 3 – Requirements
- Part 4 – Response Form (including pricing workbooks)

In this Part 2, a reference to a “Part” is to a part of the RFP document set. In the event of a conflict between any Parts, the following order of priority will apply: Part 2, Part 4, Part 3 and Part 1. A reference to a “section” is a reference to a section in this Part 2 unless it specifies a different Part, e.g. section 2 of Part 4.

Each Shortlisted Respondent who wishes to submit a response to the Project NEXT RFP must use the RFP Response Form in Part 4.

1.1.3. Structure of the Request for Proposal

Each Shortlisted Respondent from the ROI will be given access to the RFP document set and, subject to the other terms and conditions of this Part 2, is invited to submit its response to this RFP, describing its proposed Ticketing Solution.

Each Shortlisted Respondent who submits a proposal will be required to submit its response in two envelopes: its pricing response must be clearly labelled and in a separate envelope to the rest of its RFP Response, (noting that the pricing response will itself comprise two separate Microsoft Excel™ workbooks).

Each Shortlisted Respondent should submit its RFP Response electronically by **12 midday New Zealand time on Thursday, 23 July 2020.**

Given the significance of the Ticketing Solution as part of the National Ticketing Solution, this RFP process has multiple steps, which are set out in section 5 *RFP process on page 18* of this Part 2.

1.1.4. Summary of this opportunity

This RFP process is part of a formal Project NEXT programme under which the Buyer (for the benefit of itself and participating public transport authorities) wish to procure a National Ticketing Solution. The Ticketing Solution part of the National Ticketing Solution is described further in Part 3.

1.1.5. What we need

We require the procurement of a Ticketing Solution that forms part of the National Ticketing Solution and meets or betters the RFP Requirements, as those requirements apply to the programme and environment context contemplated in Part 1.

1.1.6. What's important to us?

What's important to the Buyer is reflected in the evaluation criteria. The evaluation criteria are set out in section 4.3 *Evaluation criteria on page 13*.

1.2. Probity

The public sector entities involved in Project NEXT place high importance on the management of probity at all stages of the procurement of the Financial Services and the Ticketing Solution.

"Probity" in this context includes both the integrity of the processes and systems, the ethical conduct of all those involved in them and the appropriate access to and use of information.

Sound probity management will be used and is essential because of the need for appropriate services to be identified and procured using a competitive process; and the high expectations of NZTA, the participating public transport authorities, public transport operators, and the general public in the outcome.

The probity approach has the following elements:

- the development of an over-arching probity framework to establish the key principles and systems for probity management, and to enable Project NEXT to identify the key probity risks and mitigations;
- the use of a probity plan for procuring the Ticketing Solution;
- the appointment by Project NEXT of an independent Probity Advisor to assist Project NEXT and participating public transport authorities in the management of probity risks, and the appointment of a Probity Auditor to provide independent assurance over the procurement process and its implementation;
- an active, systematic approach to managing probity risks, including in respect of conflicts of interest and information management.

Probity requirements for the RFP process

Maintaining probity throughout the RFP process is a key requirement. The probity approach has three objectives:

- giving Shortlisted Respondents sufficient confidence in the process to respond;
- ensuring that information received from a Shortlisted Respondent and/or a RFP Respondent during and in relation to the ROI and/or RFP processes is used in the manner described in Part 2; and

- ensuring that no Shortlisted Respondent is either unduly advantaged or disadvantaged in its participation in the RFP process.

If any party wishes to discuss a probity-related issue relating to the RFP process, enquiries should be directed to the Project NEXT Probity Advisor:

section 9(2)(a)

See also the process for raising probity concerns at “5.24 Issues and complaints” on page 27.

Other advisors

To reduce the risk of a Shortlisted Respondent causing an advisor to Project NEXT to have a conflict of interest, we disclose that the following advisors have been engaged by the Buyer in relation to Project NEXT:

- MinterEllisonRuddWatts – lawyers acting for the Project;
- Buddle Findlay advising NZTA;
- PricewaterhouseCoopers - financial and commercial advisors;
- Alco Euro Limited – technical advice;
- Nine Squared – economic consultants; and
- Stimpson & Co – business case development advisors.

2. Key information

2.1. Context

This RFP is an invitation to Shortlisted Respondents to submit a response for the procurement of the Ticketing Solution part of the National Ticketing Solution. The Financial Services forms the other part of the National Ticketing Solution and is the subject of a separate procurement process.

2.2. Our timeline

The Buyer's timeline for this RFP is:

RFP Documents issued to Shortlisted Respondents	21 April 2020
Last date for questions from Shortlisted Respondents (Deadline for RFP Questions)	12pm midday, Thursday 25 June 2020
RFP close date (Deadline for RFP Responses)	12pm midday, Thursday 23 July 2020

All dates and times are dates and times in New Zealand, taking into account daylight savings.

2.3. How to contact us

(a) All enquiries during the RFP process, and all questions and requests for clarification must be directed in writing to the Buyer's Point of Contact through the email address set out in section 2.3(b) below. The Buyer will manage all external communications in relation to the Request for Proposal process through the Buyer's Point of Contact and any person authorised by the Buyer.

(b) Buyer's Point of Contact

Name: Project NEXT Contact Officer

Email address: ProjectNEXT@gw.govt.nz

Shortlisted Respondents may submit questions and requests for clarification to the Buyer's Point of Contact prior to the Deadline for RFP Questions set out in section 2.2 above. Shortlisted Respondents should not expect any question or request submitted after the Deadline for RFP Questions or by other means to be answered.

2.4. Developing and submitting your RFP Response

This RFP is a closed, competitive process. This Part 2 sets out the step-by-step process, and terms and conditions that apply to this RFP.

Please take time to understand the RFP, in particular:

- the RFP Requirements referred to in section 3 *Our Requirements on page 12*; and
- how your RFP Response will be evaluated. Section 4 *Our Evaluation Approach on page 13* describes our Evaluation Approach.

Each RFP Respondent must ensure that its RFP Response complies with the following:

- (a) use the RFP Response Form provided in Part 4. The RFP Response Form is in a Microsoft Word™ document and two or more Microsoft Excel™ workbooks that will be sent to you;
- (b) all response items are responded to in the same sequence provided in section 2 of Part 4;
- (c) each response item contained in section 2 of Part 4 must include the code, reference number, and description as written in bold font for each response item;
- (d) be written in the English language only;
- (e) express any monetary values in New Zealand dollars and, if the Response Item allows and the base currency is not New Zealand dollars, the base currency that costs will be incurred in. In each case, state those values before the addition of any taxes, duties, levies, fees or other similar charges. The Buyer has provided a list of foreign currencies and exchange rates in the Pricing Workbook user guide which Respondents should use when converting any costs from a base currency into New Zealand dollars. While all contracted prices will be in New Zealand dollars, any foreign currency movements from the initial exchange rates provided in the Pricing Workbook user guide and contractual close will be considered when determining the updated contract prices in New Zealand dollars;
- (f) be signed and dated by an authorised officer of the RFP Respondent;
- (g) the Microsoft Word™ response document must be completed and returned electronically in both Microsoft Word™ and PDF soft copy formats; and
- (h) the accompanying Microsoft Excel™ templates to be used for the Pricing Workbook must be completed and returned electronically in Microsoft Excel™ format;
- (i) within 72 hours of the Deadline for RFP Responses, a hard copy of the response document described in *section (g)* above must be delivered to the offices of Greater Wellington Regional Council, Level 2, 15 Walter Street, Wellington 6011, for the attention of Project NEXT Contact Officer. The hard copy is to be printed and assembled in a loose-leaf ring binder, unbound. i.e. in lever arch file(s) so that if

required copies can be made by the evaluation teams. Note: a hard copy response of the Pricing Workbook is not required.

For guidance on tendering and access to a supplier resource centre, go to:
<https://www.procurement.govt.nz/suppliers/>

2.5. Our RFP Process, Terms and Conditions

- (a) This RFP process is subject to the RFP Process described in section 5 *RFP process on page 18* and the Terms and Conditions set out in section 6 *RFP Terms and Conditions on page 28*.
- (b) The Buyer has made variations to the standard New Zealand government RFP process, terms and conditions to reflect the process, and terms and conditions that will apply to this RFP process and procurement of the Ticketing Solution.
- (c) The form of the Master Services Agreement that will apply for the Ticketing Solution will be included in the RFP documentation set.

2.6. Later changes to the RFP or RFP process

Subject to section 6 *RFP Terms and Conditions on page 28*, if, after publishing the RFP, but prior to the Deadline for RFP Responses, the Buyer decides to change the RFP or RFP process, or wants to provide all Shortlisted Respondents with additional information, the Buyer will let each Shortlisted Respondent know by sending a notification to each Shortlisted Respondent by email. The Buyer will send any such notifications about any changes to the RFP or RFP Process or additional information only to those Shortlisted Respondents who have not been disqualified by the relevant time.

3. Our Requirements

3.1. Requirements

The Ticketing Solution requirements are set out in Part 3, as those requirements apply to the Project NEXT programme and environment context contemplated in Part 1. Alternative proposals will not be evaluated as part of this procurement process.

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4. Our Evaluation Approach

4.1. Evaluation model

This section 4 explains the evaluation approach that will be used to evaluate each RFP Response. The evaluation of each RFP Response will assess whether the RFP Respondent will deliver the outcomes required of the Ticketing Solution as part of the NTS and provide public value.

Evaluation of each RFP Response will be conducted against a set of evaluation criteria and take into account quality, price and the total cost of ownership.

Evaluation will be undertaken using resources both internal and external to the Buyer.

4.2. Pre-conditions

“Pre-conditions” are those Response Items included in section 1.6 of Part 4 – Response Form, which a RFP Respondent must answer in either the affirmative or negative. A RFP Respondent can provide accompanying information to support a negative answer. If a RFP Respondent does not meet one or more pre-condition, the Buyer may disqualify that RFP Respondent from having its RFP Response evaluated further, or the Buyer may reject any part of the RFP Response that the Buyer considers relates to a failed pre-condition.

The relevant Evaluators will evaluate the RFP Response only if the RFP Respondent has met all of the pre-conditions, or the Buyer exercises its discretion to have the RFP Respondent's RFP Response evaluated further despite not meeting a pre-condition on its face, in which case, the Evaluators may evaluate all of the RFP Respondent's Response or only the parts that the Buyer does not reject. The Buyer may exercise such discretion where it considers (acting reasonably) that although a negative answer has been provided for a particular pre-condition, the RFP Respondent's accompanying information demonstrates that any non-conformance with the pre-condition is immaterial and that the Respondent can substantively meet the pre-condition or can otherwise meet the objective or objectives that Respondents would reasonably contemplate led the Buyer to including such pre-condition in another manner. In such circumstances, the RFP Respondent will be treated as having met the relevant pre-condition.

4.3. Evaluation criteria

Except to the extent set out in section 5.18, the Evaluators will evaluate each RFP Response that has not been disqualified according to the following evaluation criteria and weightings, and the TTSC to the Buyer to receive the Ticketing Solution. All evaluation criteria will be applied and judged by the relevant Evaluators at their sole discretion.

The RFP evaluation criteria are divided into six categories, which are described further below:

Solution Capability and Delivery Requirements

- Overall assessment of the Prime Contractor (including sub-contractors and or consortium) capability, experience and track record in the design, build, implementation and operation of the proposed end-to-end ticketing solution within the National Ticketing Solution eco-system.
- Demonstrates a suitable approach and capability across all areas of the Ticketing Solution that will ensure that the ticketing solution proposal will meet each of the core solution concepts and principles.
- Demonstrates capability to meet the business and technical solution and services requirements.

Ticketing Requirements

- Demonstrates the experience and track record to deliver a proven ticketing solution as defined in the requirement, without significant development required.

Operations Requirements

- Demonstrates an operational capability to provide ongoing ITO, BPO and multi-tenancy services within the context of the National Ticketing Solution eco-system.
- Confirms willingness to work with the proposed commercial model.
- Commits to having an in-country base with appropriate delegated authority and capacity.

Implementation Requirements

- Demonstrates a proven and suitable approach and methodology to implement a ticketing solution nationally, over multiple TSOs, across multiple years in accordance with the defined roadmap that may be subject to change.
- Commits to having an in-country base with appropriate delegated authority and capability.

Commercial Requirements

- Assessment of their acceptance of proposed contractual terms (MSA) and ability to work within the commercial framework.
- Meets the due diligence criteria
- Outlines appropriate governance framework for design, build and implement and governance framework for operations

Price

- Assessment of the RFP Respondent's price, as submitted in the pricing envelope of its RFP response. This criteria assesses the RFP Respondent's price for the design, build, implementation and operation of the Ticketing Solution and associated goods and services.

The percentage weighting attached to Response Items under each of the Evaluation Criteria above is set out in the following table in this section 4.3. Each Response Item to be evaluated in the Non-price Attributes Envelope will be rated using the rating scale described in the table in section 4.4. The following table sets out the weighting that applies to each of the evaluation criteria that will be used to evaluate the RFP Response.

Non Price Attributes (80% of overall weighting)

Non-price Attributes	Weighting Percentage
Solution Capability and Delivery Requirements	15%
Ticketing Requirements	30%
Operations Requirements	30%
Implementation Requirements	20%
Commercial Requirements	5%
Total	100%

Pricing (20% of overall weighting)

Price	100%
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Total Ticketing Solution cost

The Buyer will consider a Shortlisted Respondent's RFP Response on the basis of the total Ticketing Solution cost (TTSC). The TTSC will be comprised of the Buyer's evaluation of the non-price attributes of the RFP Respondent's RFP Response, the Buyer's assessment of pricing from that RFP Respondent's RFP Response and any other adjustment that the Buyer (in its sole discretion) considers appropriate to help ensure that there is a fair and reasonable assessment of equivalent pricing for each response taking into account the likelihood of variance between responses. The other adjustments may include, without limitation, one or more cost adjustments to reflect the Buyer's assessment of:

- any change in costs that would be incurred by the Buyer or a TSO;
- any addition or reduction in activities responsibilities or functions of the RFP Respondent and/or the Buyer;
- the Buyer's assessment of the potential cost impact of identified risk; and
- at the BAFO stage only, re-use of equipment, other assets and/or infrastructure.

Pricing Information

Each RFP Respondent must submit the Pricing Envelope part of its RFP Response separately to and at the same time as the rest of its RFP Response. The initial assessment of Pricing will be carried out by different evaluators to those carrying out initial evaluation of responses for the Non-price Attributes. Any assessment of the Pricing Envelope will occur following the initial due diligence described in section 5.12 *Initial due diligence on page 23*.

Provisional sum

In the Pricing Envelope, the Respondent must include a provisional sum for each participating public transport authority's transition plan into the NTS, as required under the relevant Response Item in Part 4 (**Provisional Sum**).

The transition plans described in the RFP Respondent's Non-price Attributes Envelope will be evaluated as part of the Buyer's non-price attributes evaluation. The Provisional Sum will not be evaluated or assessed before the down-select stage of the RFP process.

The Buyer will assess the Provisional Sum at the BAFO stage as part of the evaluation and assessment of the Down-selected Respondent's response.

Each Shortlisted Respondent must show how its Provisional Sum has been compiled, using the rates submitted as part of its Pricing Envelope, with enough explanation and supporting material to enable the Buyer to understand the make-up of the Provisional Sum.

Pricing for "Should" and "Could" Requirements (Non-Mandatory Priced Items)

The RFP Requirements include requirements that are stated to be "Should" and "Could". Typically, the Buyer would consider those requirements as optional.

Where a Response Item in Part 4 requires, the Shortlisted Respondent must submit a separate price in its Pricing Envelope for those "Should" or "Could" Requirements (referenced as **Non-Mandatory Priced Items** in the Pricing Workbook).

Where requested, the Shortlisted Respondent will be asked to state whether:

- (a) its pricing will change if the "Should" or "Could" Requirement is not selected; or
- (b) whether the "Should" or "Could" Requirement would not change the Shortlisted Respondent's RFP Pricing Envelope, for example, because the optional item is part of the Shortlisted Respondent's core offering.

4.4. Ratings for Non-price Attributes Envelope

The following rating scale will be used to evaluate the Non-price Attributes Envelope of each RFP Response that has not been disqualified and the Buyer wishes to evaluate further.

Description	Definition	Rating
Excellent	Exceeds the requirement. Exceptional demonstration by the RFP Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services. Response identifies factors that will offer potential added value, with supporting evidence.	90 - 100
Good	Satisfies the requirement with minor additional benefits. Above average demonstration by the RFP Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services. Response identifies factors that will offer potential added value, with supporting evidence.	75 – 89
Above Average	Satisfies the requirement. Demonstration by the RFP Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with supporting evidence.	60 – 74
Average	Satisfies the requirement with minor reservations. Some minor reservations of the RFP Respondent's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	50 – 59
Below average	Barely adequate and would need minor improvement if selected. Considerable reservations of the RFP Respondent's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	36 – 49
Unacceptable	Total non-compliance or inability to convey provision of the requirement. Does not comply and/or insufficient information provided to demonstrate that the RFP Respondent has the ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	35 or less

4.5. Moderation

Each RFP Response will be subject to one or more moderation processes by the relevant Evaluators throughout the evaluation process.

5. RFP process

5.1. Note to Shortlisted Respondents and RFP Respondents

In managing this RFP process, the Buyer will endeavour to act fairly and reasonably in all of its dealings with each Shortlisted Respondent and RFP Respondent, in accordance with the Project NEXT probity framework and the relevant probity plans.

5.2. Preparing a RFP Response

- (a) Each Shortlisted Respondent is to use the RFP Response Form provided in Part 4 for the purpose of submitting its Price Envelope and Non-price Attributes Envelope as part of its RFP Response.
- (b) Each RFP Respondent must submit its Pricing Envelope separate to and at the same time as the Non-price Attributes Envelope.
- (c) By participating in this RFP and/or submitting a RFP Response, the RFP Respondent accepts that it is bound by the RFP-Terms.
- (d) Each Shortlisted Respondent will:
 - i. examine the RFP and any documents referenced in the RFP and any other information provided by the Buyer for the purpose of this RFP;
 - ii. if appropriate, obtain independent advice before submitting a RFP Response; and
 - iii. satisfy itself as to the correctness and sufficiency of its RFP Response.
- (e) There is no expectation or obligation for a Shortlisted Respondent to submit a RFP Response solely to remain on any prequalified or registered supplier list. Any Shortlisted Respondent will not be penalised in relation to that list for failure to submit a RFP Response.
- (f) Each RFP Respondent is responsible for all acts and omissions of any agent, representative, personnel, partner, consortium member or sub-contractor named in the RFP Respondent's ROI Response and/or RFP Response and is responsible for the overall accuracy of the RFP Response.

5.3. Shortlisted Respondents' Deadline for RFP Questions

- (a) Each Shortlisted Respondent should satisfy itself as to its interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP document set, the Shortlisted Respondent should ask a question or request clarification before the Deadline for RFP Questions.
- (b) All questions and requests for clarification must be made by email to the Buyer's Point of Contact ProjectNEXT@gw.govt.nz The Buyer will endeavour to respond to requests

made before the Deadline for RFP Questions in a timely manner (with a target of being within 3 Business Days).

- (c) The Buyer will not provide details of any question or request for clarification, or the answer, in respect of a single Shortlisted Respondent to any other Shortlisted Respondent. However, and subject to section 5.3(d), if the Buyer considers an answer to a Shortlisted Respondent's question or request for clarification to be of sufficient importance or significance to all Shortlisted Respondents, the Buyer may provide details of the question or request and answer to other Shortlisted Respondents. In doing so, the Buyer may summarise the Shortlisted Respondent's question or request and will not disclose the Shortlisted Respondent's identity. The question or request and answer may be emailed to Shortlisted Respondents. A Shortlisted Respondent may withdraw a question or request at any time before the Buyer's answer is emailed.
- (d) In submitting a question or request for clarification, a Shortlisted Respondent is to indicate, at the time of its question or request, any information that is commercially sensitive. The Buyer will not publish any of the Shortlisted Respondent's information that the Buyer considers to be commercially sensitive information. However, the Buyer may modify a question or request so as to eliminate such commercially sensitive information, and publish the modified question or request and the answer where the Buyer considers it to be of sufficient importance or significance to other Shortlisted Respondents. In this case, however, the Shortlisted Respondent will be given an opportunity to withdraw the question or request to remove the commercially sensitive information.
- (e) Any question or request for clarification relating to a FSP must be made applying the process set out in this section 5.3 only. For the avoidance of doubt, a Shortlisted Respondent must not contact a FSP directly in regard to the matters relating to this RFP. The FSPs will, if required, attend the interactive workshops preceding the presentation of Best and Final Offers. The Shortlisted Respondent will comply with any protocol for interacting with a FSP, as notified by the Buyer from time to time.

5.4. Submitting a Response

- (a) Each Shortlisted Respondent is responsible for ensuring that its RFP Response is received by the Buyer at the correct e-mail address on or before the Deadline for RFP Responses. The Buyer will acknowledge receipt of each RFP Response promptly.
- (b) The Buyer may reject any RFP Response (or any part of a RFP Response) received after the Deadline for RFP Responses.
- (c) Subject to sections 5.5 and 6 of this Part 2, for a period of 18 months from the Deadline for RFP Responses, each Shortlisted Respondent will not withdraw its RFP Response and will ensure its RFP Response stays the same in all material respects.

- (d) The Buyer and each participating public transport authority intend to rely on the RFP Respondent's RFP Response and all information provided by the RFP Respondent in relation to the RFP Response (e.g. correspondence). The Buyer and each participating public transport authority may rely on information provided by a RFP Respondent even if the Buyer has rejected that information. In submitting a RFP Response and/or communicating with the Buyer, each Shortlisted Respondent will ensure that all information it provides to the Buyer:
- i. is true, accurate and complete, and not misleading in any material respect; and
 - ii. does not contain Intellectual Property or other information that will breach any third party's rights.
- (e) The Shortlisted Respondent will ensure that it delivers its RFP Response in electronic copy, in accordance with section 2.4 *Developing and submitting your RFP Response on page 10*.
- (f) Before the RFP was issued, each Shortlisted Respondent was invited to attend an interactive workshop specific to that Shortlisted Respondent with representatives of the Buyer. Without limiting any of the Buyer's rights in this Part 2 or otherwise, any information disclosed by a Shortlisted Respondent in relation to the ROI or the pre-RFP interactive workshop will not form part of the Shortlisted Respondent's RFP Response, unless that Shortlisted Respondent sets out that information in its RFP Response.

5.5. Changes to sub-contractors in ROI Response or RFP Response

- (a) A Shortlisted Respondent must notify the Buyer immediately if a sub-contractor and/or consortium member named in the RFP Respondent's ROI Response and/or RFP Response withdraws or is removed.
- (b) The Shortlisted Respondent will obtain the Buyer's prior written consent before including any sub-contractor and/or consortium member in its RFP Response for a role, unless that sub-contractor and/or consortium member was named in that Shortlisted Respondent's ROI Response for that role or the Buyer has consented in writing to the inclusion of that sub-contractor and/or consortium member in that role.
- (c) If the Buyer considers that the RFP Response with the withdrawn, removed or changed sub-contractor and/or consortium member, or with the change of the sub-contractor's and/or consortium member's role, could not be evaluated without unfairly advantaging the RFP Respondent in relation to other RFP Respondents, the Buyer may disqualify the Shortlisted Respondent from evaluation.

5.6. Third party information

- (a) Each Shortlisted 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 or supplier) and to use that information as part of the Buyer's evaluation of the RFP Respondent's RFP Response.
- (b) Each RFP Respondent is to ensure that all referees listed in support of its RFP Response agree to provide a reference.
- (c) To facilitate discussions between the Buyer and third parties, each Shortlisted Respondent waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.

5.7. Buyer's clarification

- (a) The Buyer may, at any time, request from any Shortlisted Respondent clarification of that RFP Respondent's RFP Response and/or any additional information about any aspect of its RFP Response or participation in the RFP process, whether identified during the evaluation process or for any other reason the Buyer considers appropriate. The Buyer is not required to request the same clarification or information from each Shortlisted Respondent.
- (b) The Shortlisted Respondent must provide the clarification or additional information in the format requested and by the requested time. The Buyer (in its sole discretion) may take such clarification or additional information (in whole or in part) into account in evaluating the RFP Respondent's RFP Response or may reject any such clarification or additional information (in whole or in part) for the purpose of evaluating the RFP Respondent's RFP Response.
- (c) Where a Shortlisted Respondent fails to respond adequately or within the requested time to a request for clarification or additional information, the Buyer may cease evaluating the RFP Respondent's Response and/or any clarification or information that is provided late or is inadequate, and/or disqualify that Shortlisted Respondent from the RFP process.

5.8. Evaluation of Non-price Attributes Envelope

The relevant Evaluators will evaluate each RFP Respondent's Non-price Attributes Envelope in accordance with the Evaluation Approach set out in section 4 *Our Evaluation Approach* on page 13.

The judging of any evaluation criteria, weighting, rating, scoring, assessment, moderation, valuing (including of any assumptions, risk, re-use of any equipment or other asset, total cost of ownership or otherwise) and/or review in relation this RFP process, will be judged by the Evaluators and/or the Buyer at their sole discretion.

5.9. Moderation of Non-price Attributes Envelope

Following the Initial Evaluation of each RFP Respondents' Non-price Attributes Envelope, the relevant Evaluators will moderate the ratings for each RFP Respondents' Non-price Attributes Envelope and (if applicable) agree moderated ratings.

5.10. Updated moderation and evaluation

The relevant Evaluators will review, further moderate and (if applicable) amend the ratings for each RFP Respondent's Non-price Attributes Envelope in light of any clarification or additional information used by the relevant Evaluators.

At any time following the Initial Evaluation and moderation of each RFP Respondent's Non-price Attributes Envelope (including at this point of the evaluation process or any subsequent point), if the Evaluators rate a RFP Respondent's response to any criteria, sub-attribute or response item in Part 4 at less than 50, the Buyer may not (and is not obliged to):

- (a) evaluate that RFP Respondent's RFP Response further in the RFP procurement process; or
- (b) invite that Shortlisted Respondent to present on that Respondent's RFP Response.

In that case, the subsequent sections of this section 5, apart from section 5.23 *RFP Respondent's debrief on page 26*, will not apply.

5.11. Presentation

After moderation of each RFP Respondents' Non-price Attribute Envelope, the Buyer may:

- (a) invite each RFP Respondent (who has not been disqualified and who the Buyer wishes to evaluate further) to present on its RFP Response and proposed Ticketing Solution. After presentations, the relevant Evaluators will moderate the rating for each RFP Respondent's Non-price Attributes Envelope again and (if applicable) adjust the rating (Post-presentation Moderation); and/or
- (b) notify a RFP Respondent that the RFP Respondent has been 'down-selected' and, if the Buyer does so, the RFP Respondent will not be invited to present on its RFP Response and Ticketing Solution at this point of the RFP process; or
- (c) notify a RFP Respondent that the RFP Respondent has been 'down-selected' and, if the Buyer considers that the RFP Respondent's RFP Response is significantly better than all other RFP Respondent's RFP Responses, may choose not to down-select any other RFP Respondents. In that case, the Buyer will notify the down-selected respondent that it is also the preferred supplier for the RFP.

5.12. Initial due diligence

Following each RFP Respondent's presentation, the Buyer will carry out an initial due diligence on that RFP Respondent. The due diligence may include financial viability and desk-based reference checks.

If the initial due diligence of the RFP Respondent identifies any material or significant deficiencies, improvements or deviation from what has been offered through the RFP Respondent's RFP Response, the relevant Evaluators may review their evaluation for the Non-price Attributes Envelope and amend their rating to reflect the agreed moderated ratings.

5.13. Pricing Envelope assessment

The relevant Evaluators will open and assess the Pricing Envelope of each RFP Respondent's RFP Response that has not been disqualified and who the Buyer wishes to evaluate further at that time. Following any opening of the RFP Respondent's Pricing Envelope, the Buyer (including any Evaluator) may:

- (a) use the RFP Respondent's Pricing Envelope submitted in its ROI Response to identify differences between the pricing submitted as part of the Respondent's ROI response and its RFP response;
- (b) seek an explanation from the RFP Respondent for any material difference between the pricing submitted by the RFP Respondent as part of the Respondent's ROI Response and its RFP Response.

The Pricing Envelope assessment may take place in parallel with Non-price Attribute Envelope Assessment using separate Evaluators and in accordance with probity requirements.

5.14. Down-selection

If the Buyer has not done so already, the Buyer will notify each RFP Respondent that the Buyer has 'down-selected'. Without limiting the Buyer's other rights, each down-selected RFP Respondent may continue participation to the next stage in the RFP (Down-selected Respondent).

5.15. Interactive Workshops pre-BAFO

If the Buyer chooses more than one Down-selected Respondent, the Buyer will invite each Down-selected Respondent to attend a number of interactive workshops with the relevant Evaluators and representatives of the Buyer. The purpose of these workshops is to give the Down-selected Respondent a further opportunity to interact with the Buyer so the Down-selected Respondent can refine its RFP Response before submitting its BAFO.

5.16. Detailed due diligence

Regardless of whether the Buyer selects one or more Down-selected Respondent, the Buyer may carry out detailed due diligence on each Down-selected Respondent.

Where more than one Down-selected Respondent is selected, the Buyer may carry out that detailed due diligence in parallel with the BAFO workshops. The due diligence may include site visits (including to the sites used by and on behalf of the Down-selected Respondent for customers, research, development and manufacturing activities), reference checking of the Down-selected Respondent and/or its consortium members, and due diligence checks on the Down-Selected Respondent's capability, which may encompass checks on the Down-Selected Respondent's personnel, processes and systems.

If the due diligence of the Down-Selected Respondent identifies any material or significant deficiencies, improvements or deviation from what has been offered through the Down-selected Respondent's RFP Response, the relevant Evaluators may review their evaluation for the Non-price Attributes Envelope and amend their rating to reflect the agreed moderated ratings.

5.17. BAFO

If the Buyer chooses more than one Down-selected Respondent, then after the Buyer has completed the workshops and any detailed due diligence, the Buyer will invite each Down-selected Respondent to re-submit the part(s) of its Non-price Attributes Envelope that the Down-selected Respondent wishes to amend and its amended Pricing Envelope, as its 'best and final offer' (the BAFO), by the requested date.

5.18. Review and moderation

The relevant Evaluators will carry out a review following submission of the Down-selected Respondent's BAFO, which will:

- review each Down-selected Respondent's BAFO RFP Response using the evaluation criteria set out in section 4 *Our Evaluation Approach on page 13*, but applying an empirical assessment (rather than the specific weighting for each evaluation criteria and not on the basis of TTSC alone), and taking into account quality, value, cost, affordability, risk and price (including any change in the pricing provided by the Down-selected Respondent and/or due to the Down-selected Respondent's re-use of equipment or other assets), and any other relevant information; and
- moderate the relevant Evaluators' evaluation for each Down-selected Respondent and amend the ratings to reflect the agreed moderated evaluation.

The relevant Evaluators will not be obliged to evaluate any BAFO submitted after the date for BAFO submission requested by the Buyer.

If no BAFO is received, then the Evaluators will evaluate the Down-selected Respondent's BAFO based on the RFP Respondent's original RFP response and any other information the

Down-selected Respondent has provided through the RFP process that the Buyer has not rejected.

5.19. Preferred Supplier selection

If *section 5.11(c)* has not been applied, the Buyer will notify the Down-selected Respondent that the Buyer has selected as the Buyer's preferred supplier for the RFP process (the RFP Respondent notified under *section 5.11(b)*, this *section 5.19* or any other section to be the Preferred Supplier).

5.20. Negotiation

- (a) The Buyer intends to conduct negotiations with the Preferred Supplier to conclude the final terms of the draft Ticketing Solution Master Services Agreement (TSMSA). Given the draft TSMSA has been provided before the Preferred Supplier's proposal is submitted, the draft TSMSA may not reflect the final position of the Buyer. The Buyer reserves the right to amend the terms of the draft TSMSA for and during negotiations, including negotiating changes to pricing, operational and other commercial terms proposed by the Preferred Supplier, in order to deliver better outcomes and public value for the Buyer and other public transport authorities. If the Buyer has not agreed an outcome to negotiations that is satisfactory to it, the Buyer may open negotiations with another Down-selected Respondent (or if no other has been named at that time, another Shortlisted RFP Respondent) and name that other respondent as "Preferred Supplier".
- (b) Being named as a "Preferred Supplier" does not constitute acceptance by the Buyer of that RFP Respondent's RFP Response, or imply or create any obligation on the Buyer to enter into negotiations with, or award a contract in relation to, the Ticketing Solution.
- (c) Each Shortlisted Respondent will not make public that a RFP Respondent has been (or has not been) named as a Preferred Supplier unless the Buyer has given its prior written approval.

5.21. Contract award

Once the agreement between the Preferred Supplier and the Buyer is in final form, any award and execution of the agreement would be subject to the recommendation and approval of the relevant Project NEXT governance bodies and stakeholders. Only once that agreement has been executed and become unconditional will the contract be considered "awarded".

5.22. Go/No Go decision after contract award

Each Shortlisted Respondent should note that a public transport authority may decide not to transition into or implement the National Ticketing Solution, including if that public transport authority does not have a detailed business case that is satisfactory to them.

In addition, if a contract is awarded under the RFP process, before any implementation begins in respect of the common parts of the Ticketing Solution or in respect of each TSO's transition into the National Ticketing Solution, the Buyer and each TSO will have the right to make a "go" or "no go" decision about whether to proceed to carry out that implementation. A TSO is under no obligation to implement the Ticketing Solution or transition to the National Ticketing Solution.

5.23. RFP Respondent's debrief

- (a) At any time after a RFP Respondent has been notified that it has not been selected as a Preferred Supplier to provide the Ticketing Solution, the Buyer will offer each RFP Respondent who has not been selected a debrief. Until a contract is executed and unconditional for the Ticketing Solution with the relevant Preferred Supplier, the Buyer is not obliged to notify a RFP Respondent that the RFP Respondent has not been down-selected or that the RFP Respondent is not the Preferred Supplier.
- (b) Each RFP Respondent will have 30 Business Days from the date of the notification under paragraph (a) above to accept the offer of a debrief. If a RFP Respondent accepts the offer of a debrief, the Buyer will provide the debrief within 60 Business Days of the date of the request.
- (c) Each RFP Respondent that requests a debrief must provide any specific questions it wishes to have answered at the debrief 10 Business Days in advance of the debrief.
- (d) The Buyer may provide the debrief by letter, email, phone or at either a video-conference or meeting. The debrief will:
 - describe the process used to evaluate the responses;
 - explain how the RFP Respondent's RFP Response performed against the pre-conditions (if applicable) and the other evaluation criteria;
 - provide the reasons why the RFP Respondent's RFP Response was not successful;
 - indicate the RFP Response's relative strengths and weaknesses;
 - note any special or notable observations from the RFP Respondent's RFP Response;
 - explain in general terms, the relative advantage/s of the RFP Respondent's RFP Response;
 - seek to address any concerns or questions raised by the RFP Respondent to be addressed in the debrief; and
 - seek feedback from the RFP Respondent on the RFP process.

5.24. Issues and complaints

- (a) A Shortlisted Respondent may, in good faith, raise with the Buyer's Point of Contact any issue or complaint about the RFP, or the RFP process at any time.
- (b) The Buyer will consider and respond within a reasonable timeframe to the Shortlisted Respondent's issue or complaint.
- (c) The Buyer and each Shortlisted Respondent agree to use all reasonable endeavours to resolve any issue or complaint that may arise in relation to the RFP or RFP process.
- (d) The fact that a Shortlisted Respondent has raised an issue or complaint in good faith will not be used by the Buyer to unfairly prejudice the Shortlisted Respondent's ongoing participation in the RFP process or future contract opportunities.
- (e) Without affecting the generality of section 5.24(a), a Shortlisted Respondent that has a concern about the probity of the RFP process should advise the concern in writing to the Project NEXT Probity Advisor (referred to in *section 1.2 Probity on page 7*) as soon as reasonably practicable. The Shortlisted Respondent should provide information about the nature of the concern, and how it has or may have affected the Shortlisted Respondent.

6. RFP Terms and Conditions

6.1. Buyer's Point of Contact

- (a) All enquiries regarding the RFP must be directed by email to the Buyer's Point of Contact. Shortlisted Respondents must not directly or indirectly approach any other representative of the Buyer, a TSO, any elected or board member of a TSO, or their respective officers, a FSP, anyone involved in the evaluation, any other person involved in Project NEXT or any other person that was involved in Project NEXT at any time since 15 June 2016, to solicit information concerning any aspect of the RFP, unless such contact is expressly permitted by the Buyer in writing.
- (b) Where a Shortlisted Respondent or any member of its consortium has an existing contract with the Buyer, a TSO, or any FSP, then that person can continue business as usual communications, for the purpose of managing the usual and current delivery of the scope of that contract (as at the release date of this RFP), using the usual contacts.
- (c) Subject to section 6.1(b), each Shortlisted Respondent must not, and will ensure each member of its consortium does not, contact the representative of the Buyer, a TSO, any elected or board member of a TSO, a FSP, or their respective officers to discuss any matter that is or could be perceived to relate to any aspect of any ticketing solution or related services including, without limitation, interim or current ticketing solutions, unless such contact is expressly permitted by the Buyer in writing.
- (d) Only the Buyer's Point of Contact, and any person authorised by the Buyer, are authorised to communicate with a Shortlisted Respondent regarding any aspect of the RFP. The Buyer will not be bound by any statement made by any other person.
- (e) The Buyer may change its Point of Contact at any time. The Buyer will notify each Shortlisted Respondent of any change to the Buyer's Point of Contact made on or before the Deadline for RFP Responses. The Buyer will notify RFP Respondents of any change to the Buyer's Point of Contact made after the Deadline for RFP Responses. This notification will be sent by email.

6.2. Conflict of Interest

Each RFP Respondent must complete and, at the same time the RFP Respondent submits its RFP Response or before, answer and submit the Conflict of Interest response item in section 1.2 of Part 4 - Response Form. The RFP Respondent must immediately inform the Buyer should a Conflict of Interest arise during the RFP process. If the Buyer considers a material Conflict of Interest has occurred or will occur, the Buyer (in its sole discretion and without the need to take any other steps) may disqualify a Shortlisted Respondent from participating further in the RFP process, may reject all or any part of a RFP Respondent's RFP Response and/or allow continued participation subject to the Shortlisted Respondent's written agreement to and compliance with the Buyer's conditions.

6.3. Ethics

- (a) Each Shortlisted Respondent must not attempt to influence or provide any form of personal inducement, reward or benefit to (or attempt to obtain any unfair advantage from) any representative of the Buyer, a TSO, an Evaluator, or FSP in relation to the RFP.
- (b) Each Shortlisted Respondent will not do anything by its act or omission which, in the Buyer's sole opinion, could prejudice the actual or perceived fairness, integrity, transparency, efficiency and/or impartiality of the RFP process.
- (c) The Buyer reserves the right to request additional declarations, or other evidence from a Shortlisted Respondent, or any other person, throughout the RFP process to ensure the probity of the RFP process.
- (d) A Shortlisted Respondent who attempts to do anything prohibited by sections 6.3(a) and/or section 6.4, or who does not provide the requested declaration or evidence within the requested timeframe under section 6.3(c), may be disqualified from participating further in the RFP process or have any part of its RFP Response rejected.

6.4. Anti-collusion and bid rigging

- (a) A Shortlisted Respondent must not engage in collusive, deceptive or improper conduct in the preparation of its RFP Response or other submissions or in any discussions with the Buyer, another TSO, an Evaluator and/or any FSP. Any such behaviour may result in the Shortlisted Respondent being disqualified from participating further in the RFP process or having any part of its RFP Response rejected. The Shortlisted Respondent undertakes that its RFP Response 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 a Shortlisted Respondent to the appropriate authority and to give that authority all relevant information, including a RFP Respondent's RFP Response and any Confidential Information from the RFP Respondent.

6.5. Confidential Information

- (a) The Buyer and each Shortlisted Respondent will each take all reasonable steps to protect Confidential Information provided or made available by or on behalf of the other and, subject to *sections 6.4(b), 6.5(b), 6.5(c), 6.5(d) and 6.5(e)*, will not disclose that Confidential Information to a third party without the other's prior written consent.
- (b) The Buyer and Shortlisted Respondent may each disclose Confidential Information provided or made available by or on behalf of the other to any person who is directly involved in the RFP process on its behalf, such as officers, employees, consultants, contractors, professional advisors, partners, principals, directors, and/or, in the Buyer's case, Evaluators, public transport authorities, other actual or potential TSOs, elected members of a council, board members, FSPs, public transport operators, providers and potential providers to any of those parties, and any person who may access the National Ticketing Solution. Those persons may only use that Confidential Information for the purpose:
- i. in the case of the Shortlisted Respondent, of participating in the RFP; and
 - ii. in the case of the Buyer, in relation to procuring a National Ticketing Solution (or any part of it) and any purpose related to the RFP process, any potential or actual shared services arrangements for the benefit of Project NEXT participants, or any other purpose or use described in section 4 *Our Evaluation Approach* on page 13.
- (c) The Buyer and Shortlisted Respondent will each take all reasonable steps to ensure that each person to whom it discloses the Confidential Information complies with confidentiality obligations no less onerous than those in this section 6.5.
- (d) *Section 6.5(a)* does not prevent the disclosure of Confidential Information provided or made available by or on behalf of Buyer or a Shortlisted Respondent (as applicable) to the extent:
- i. that information was known, or becomes known, to the public through no act or default of the other;
 - ii. that the other is required by law or the rules of any stock exchange on which it is listed to disclose that information, so long as:
 - A. the other provides notice of the required disclosure as soon as reasonably practicable (if it is permitted to do so by law), the information of the other that it will disclose and the date by which it will disclose that information; and
 - B. the other discloses only in accordance with that notice;
 - iii. that information becomes available to the other from a third party who is not involved in the RFP process, where the other has no reason to believe such a source is itself bound by an obligation of confidence to the person that disclosed

that information or made it available, or is otherwise prohibited under law from disclosing such information;

- iv. such disclosure is authorised by this RFP or the other party in writing; or
- v. such disclosure is approved for release with the consent of the party to whom the Confidential Information relates.

- (e) The Shortlisted Respondent acknowledges that the Buyer's obligations under this section 6.5 are subject to requirements imposed by the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, the Privacy Act 1993, local government, parliamentary and constitutional convention and any other obligations imposed by law. The Buyer will not be in breach of its obligations if Confidential Information provided or made available by or on behalf of a Shortlisted Respondent is disclosed by the Buyer to the appropriate authority or body because of suspected collusive or anti-competitive tendering behaviour.
- (f) The Shortlisted Respondent will ensure that, if the Shortlisted Respondent engages or employs any former employee, contractor or advisor who at any time since 15 June 2016 was an employee, contractor or advisor of NZTA, a public transport authority, or a party involved in Project NEXT (or any predecessor project to procure a ticketing solution for a public transport authority (Former Personnel)), that Former Personnel will not participate in any capacity in the RFP process for the Shortlisted Respondent without the Buyer's prior written consent.

6.6. Confidentiality of RFP information

Subject to *section 6.5(b)*, for the duration of the RFP, until the date of the Buyer's public announcement of the award of the contract under the RFP, and/or the end of any RFP procurement process, the Shortlisted Respondent 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 any award of a contract under the RFP, without the Buyer's prior written consent.

6.7. Costs of participating in the RFP process

Each Shortlisted Respondent will meet its own costs associated with its participation in the RFP (including any interactive workshops and other interactions between the ROI and RFP processes), the preparation and presentation of any RFP Response and RFP-related processes.

6.8. Ownership and use of documents

- (a) Except for the following sentence, this RFP does not give a Shortlisted Respondent any right, title or interest in the RFP-related information or materials provided or made available by or on behalf of the Buyer, a public transport authority, a FSP, or an Evaluator. The Buyer grants to the Shortlisted Respondent a non-exclusive, non-transferable, limited licence, until the Buyer requests the return of the RFP document

set, to use the RFP document set solely for the purpose of this RFP and in accordance with the RFP-Terms. The Buyer may request the immediate return, deletion, or destruction of any or all RFP documents and any copies (in both hard copy and/or electronic format). A Shortlisted Respondent must comply with any such request in a timely manner.

- (b) All documents forming a RFP Respondent's RFP Response (and any information provided to the Buyer that has been rejected) will, when submitted as part of this RFP process, become the property of the Buyer. The Buyer is not obliged to return any RFP Response and/or any rejected information to a RFP Respondent.
- (c) Ownership of Intellectual Property rights in a RFP Response remains the property of the RFP Respondent or its licensors. However, the RFP Respondent grants to the Buyer a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose (to any person to whom the Buyer is entitled to disclose the information under section 6.5 *Confidential Information on page 30*) information contained in the RFP Respondent's RFP Response and/or disclosed in any other communication or workshop related to the ROI and/or RFP processes, for any purpose related to the RFP process or the procurement of the National Ticketing Solution (or any part of it).

6.9. No binding legal relations

- (a) Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between the Buyer and/or a public transport authority (on one hand) and any Shortlisted Respondent (on the other), except:
 - i. that the Buyer may rely on each Shortlisted Respondent's statements, representations and/or warranties in its communications and negotiations with the Buyer, including its RFP Response; and
 - ii. for the conditions set out in sections 6.1 to 6.15.
- (b) Each exception in section 6.9(a) is subject to the Buyer's additional rights in section 6.11.
- (c) Except for the legal obligations set out in section 6.9(a), nothing in the RFP creates a legal relationship between the Buyer, a public transport authority, any TSO, nor any Evaluator, on one hand, and any Shortlisted Respondent on the other.

6.10. Disqualification

- (a) The Buyer may disqualify a Shortlisted Respondent from participating in the RFP Process or may reject any information provided by a Shortlisted Respondent, if the Buyer has evidence of any of the following, and that evidence is considered by the Buyer to be material to the RFP and/or the procurement of the National Ticketing Solution (or any part of it):

- i. the Shortlisted Respondent has failed to provide all information requested or described in a response item in Part 4, or in the correct format, or by the required time and date;
- ii. the Buyer considers that the Shortlisted Respondent has materially breached a term or condition of the RFP-Terms or the ROI-Terms;
- iii. a RFP Respondent's RFP Response contains a material error, omission or inaccuracy;
- iv. the Shortlisted Respondent is in bankruptcy, receivership or liquidation;
- v. the Shortlisted Respondent has made a false declaration;
- vi. the Shortlisted 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 Shortlisted Respondent which adversely reflects on the integrity of the Shortlisted Respondent;
- viii. the Shortlisted Respondent has failed to pay taxes, duties or other levies; and/or
- ix. the Shortlisted Respondent, any of member of its consortium or any person engaged or employed by either of them represents a threat to national security or the confidentiality of sensitive local and/or central government information. If the Buyer requests in writing, the Shortlisted Respondent will ensure that such a person does not participate in any capacity in the RFP process for the Shortlisted Respondent and/or a member of its consortium.

6.11. Buyer's additional rights

- (a) Subject to *section 6.11(b)* but despite any other provision in the RFP, the Buyer may, on giving due notice to each Shortlisted Respondent or RFP Respondent (as the Buyer considers applicable):

- i. amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP; and/or
- ii. make any change to the RFP Process or Evaluation Approach, including any change to the timeline, such as a Deadline for RFP Responses;
- iii. reduce or make a non-material increase in the scope of any Ticketing Solution from that described in this RFP without reverting to the market. If the Buyer has notified one or more Down-selected Respondents, the Buyer may change the scope of the Ticketing Solution for both, or for one and not another, or may apply different changes to each. If no Down-selected Respondent has been notified at the time of the change, the Buyer will give notice by email to each Shortlisted Respondent who has not been disqualified at that time and whose RFP Response the Buyer wishes to evaluate further.

Section 6.11(a)ii will not apply solely by reason of a change to the scale of operations for the Ticketing Solution, for example, if a TSO or potential TSO does or does not decide to transition into the Ticketing Solution.

- (b) Despite any other provision in the RFP, the Buyer may:

- i. accept a late RFP Response (or part of a RFP Response) if it is the Buyer's fault that the RFP Response is received late;
- ii. in exceptional circumstances, accept a RFP Response (or part of a RFP Response) not submitted by the Deadline for RFP Responses where the Buyer consider that there is no material prejudice to other RFP Respondents;
- iii. choose not to evaluate the whole or any part of a RFP Response;
- iv. answer questions submitted after the relevant Deadline for RFP Questions;
- v. accept, reject or give a RFP Respondent an opportunity to amend and re-submit any non-compliant RFP Response (and the Buyer may choose to evaluate only the original RFP Response or all or part of any amended or re-submitted RFP Response, in the Buyer's sole discretion);
- vi. in its evaluation of the RFP Respondent's Response, take into account any matter that the Buyer considers materially impacts on the Buyer's trust and confidence in the Shortlisted Respondent and any other relevant information that the Buyer may have in its possession;
- vii. remove from the scope requirements, outcomes, goods or services sought by the Buyer;
- viii. decide not to procure the Ticketing Solution (in whole or in part);
- ix. decide not to enter into a contract with any Shortlisted Respondent for the Ticketing Solution at any time;
- x. liaise or negotiate with any supplier or Shortlisted Respondent without disclosing this to, or doing the same with, any other Shortlisted Respondent;
- xi. provide or withhold from any Shortlisted Respondent information in relation to any question or request for clarification arising in relation to the RFP. Information may be withheld if the Buyer deems the information to be unnecessary for the preparation of a RFP Response, is commercially sensitive to a Shortlisted Respondent, is inappropriate to supply at the time of the request, and/or cannot be released for legal reasons;
- xii. approve or not approve any change requested by a Shortlisted Respondent to its RFP Response, where the Buyer considers it appropriate and reasonable to do so; and/or
- xiii. waive irregularities or requirements in the RFP process where it considers it appropriate and reasonable to do so.

(c) The Buyer may request that a RFP Respondent agrees to the Buyer selecting any individual element(s) of the Requirements that is offered in a RFP Response and capable of being delivered separately, unless the RFP Response specifically states that the RFP Response, or elements of the RFP Response, are to be taken collectively.

6.12. New Zealand law

The laws of New Zealand shall govern the RFP process and each Shortlisted Respondent agrees to submit to the non-exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process. Each Shortlisted Respondent waives its right to challenge the jurisdiction of the New Zealand courts on the basis of *forum non-conveniens*.

6.13. Disclaimer

- (a) The Buyer, the public transport authorities, any elected member of a council, board members, and their respective officers, employees, contractors and advisers, and any Evaluator, will not be liable in contract, tort (including negligence), equity, or in any other way whatsoever for any direct or indirect damage, loss or cost (including any loss of profit, revenue, anticipated savings, business opportunity and/or goodwill) incurred by any Shortlisted Respondent 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 or on behalf of the Buyer to any Shortlisted Respondent shall be construed as legal, financial or other advice.
- (c) Each Shortlisted Respondent acknowledges that the information in the RFP document set may not have been independently verified and may not be complete, accurate or current. Each Shortlisted Respondent relies entirely on its own judgement in any use of the RFP document set and any information provided or made available to it by or on behalf of the Buyer and/or a public transport authority.
- (d) To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer, the public transport authorities, any elected member of a council, board members and their respective, officers, employees, and advisers of the Buyer, and any Evaluator, collectively, is \$1.

6.14. Precedence

- (a) Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
 - i. Section 6 of this Part 2;
 - ii. Section 5 of this Part 2;
 - iii. all other sections of this Part 2;
 - iv. all other Parts of this RFP document set; and
 - v. any additional information or document provided by the Buyer to Pre-registered Suppliers for the purposes of this RFP through the Buyer'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.
- (c) The indicative process for the RFP, as set out in the ROI, will not be taken into account in any interpretation of this RFP.

6.15. Privity

- (a) Each Shortlisted Respondent acknowledges and agrees that, pursuant to subpart 1 of part 2 of the Contract and Commercial Law Act 2017:
 - i. the Buyer and each public transport authority is entitled to the benefit of and to enforce the RFP-Terms and to rely on any statement or representation made by or on behalf of a Shortlisted Respondent under or in relation to the RFP process;
 - ii. the Buyer may bring an action against the Shortlisted Respondent to enforce any obligation owed to the Buyer and/or a TSO by the Shortlisted Respondent;
 - iii. the Buyer may aggregate the claims and include the loss of a TSO and/or NZTA in the Buyer's claim as if it was the Buyer's loss, even if the Buyer, themselves, have not suffered or incurred that loss and such loss will be considered the Buyer's direct loss.
- (b) Each Shortlisted Respondent agrees that:
 - i. NZTA can access, use, take the benefit of and rely on representations, declarations, materials and other communications made by that Shortlisted Respondent to the previous buyers (being Auckland Transport and Greater Wellington Regional Council) under and in relation to the ROI and/or RFP procurement processes and/or in between either of those processes as if the procuring party at the time was NZTA;
 - ii. NZTA will receive the benefit of and can enforce any representations, declarations, materials and other communications made to a Shortlisted Respondent by or on behalf of the previous procuring parties under and in relation to the ROI and/or RFP procurement processes, as if the procuring party at the time was NZTA;
 - iii. the Shortlisted Respondent has no objection and will raise no objection to the NZTA replacing Greater Wellington Regional Council and Auckland Transport as the Buyer under and in relation to the RFP and having the rights set out above.

7. Definitions and interpretation

In relation to this Part 2, the following words and expressions have the meanings described below.

Term	Meaning
BAFO	Means the 'best and final offer' submitted or to be submitted under section 5.17 BAFO on page 24.
Business Day	Means 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.
Buyer	Means the New Zealand Transport Agency (NZTA), who may be acting for the benefit of itself and/or public transport authorities.
Competitor	Means any other business that is in competition with a Shortlisted Respondent either in relation to the outcomes, goods or services to which this RFP relates or in general.
Confidential Information	Includes information that: <ol style="list-style-type: none"> is by its nature confidential; is marked by either the Buyer or a Pre-registered Supplier as 'confidential', 'commercially sensitive', 'sensitive', 'commercial in confidence', 'in confidence', or similar language; is provided or made available by or on behalf of the Buyer, a public transport authority or to a Shortlisted Respondent, or a third party described in section 6.5 Confidential Information on page 30 in confidence; and/or the Buyer or a Shortlisted Respondent, who receives that information, knows, or ought to know, is confidential; Confidential information does not cover information that is in the public domain through no fault of either the Buyer or a Shortlisted Respondent.
Conflict of Interest	<p>A Conflict of Interest arises if:</p> <ol style="list-style-type: none"> a Shortlisted Respondent's personal or business interests or obligations do, could, or could be perceived to, conflict with its obligations to the Buyer under the RFP or in the provision of the outcomes, goods and/or services relating to the Ticketing Solution (or any part of it); and/or a Shortlisted Respondent seeks or obtains an unfair advantage (compared to other Shortlisted Respondents) as a consequence of using information in relation to or for the purposes of this RFP, which was obtained in breach of these RFP-Terms and/or the ROI-Terms. <p>It means that the Buyer's, the Evaluators' or related stakeholder's independence, objectivity or impartiality can be called into question or that a Shortlisted Respondent has an unfair advantage. 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.

Deadline for RFP Questions	Means the deadline for each Shortlisted Respondent to submit questions or requests for clarification to the Buyer's Point of Contact, as stated in section 2.2 <i>Our timeline on page 9</i> .
Deadline for RFP Responses	Means the deadline by when each Shortlisted Respondent's RFP Response is to be submitted electronically, as stated in section 2.2 <i>Our timeline on page 9</i> .
Down-selected Respondent	Has the meaning set out in section 5.14 Down-selection on page 23.
Evaluation Approach	Means the approach used by the Evaluators to evaluate RFP Responses for the procurement of the Ticketing Solution, as described in section 4 <i>Our Evaluation Approach on page 13</i> .
Evaluator	Means any person involved in the evaluation of Responses and the selection of RFP Respondents under this RFP.
FSP	Means a provider of Financial Services, who is named as a preferred supplier or awarded a contract under the Project NEXT procurement.
Financial Services	Means the financial services that form part of the National Ticketing Solution, which are being procured through a separate process, as part of the Project NEXT procurements.
GETS	Means the Government Electronic Tenders Service available at www.gets.govt.nz
GST	Means the goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.
Intellectual Property	Means all intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.
National Ticketing Solution	Means the ticketing and payment processing solution being procured by the Buyer, which will provide payment processing services for journeys on public transport services. The National Ticketing Solution comprises both the Ticketing Solution and the Financial Services.
Non-price Attributes Envelope	Non-price Attributes Envelope submitted or to be submitted as part of this RFP process.
Point of Contact	The Buyer and each Shortlisted Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications in relation to this RFP during the RFP process. The Buyer's initial Point of Contact is identified in section 2.3. The Shortlisted Respondent's initial Point of Contact is identified in its RFP Response in Part 4.
Preferred Supplier	Has the meaning set out in section 5.19.
Pre-registered Supplier	Means a supplier that submitted its pre-registration for the ROI in accordance with the pre-registration notice on GETS.
Project NEXT	Means the name of the project to procure the National Ticketing Solution.
Response Form	Means the response form set out in Part 4 of this RFP.
Response Item	Means each question or request for a specific response, as set out in the Response Form.
RFP or Request for Proposal	Means this request for proposal comprising Parts 1 to 4.
RFP Pricing Envelope or Pricing Envelope	Means the relevant RFP Respondent's response to the pricing request items in the Excel document of the RFP Response Form as that response is set out and submitted through the "Pricing Envelope", and all other information submitted by or on behalf of the RFP Respondent to the Buyer or its representatives in relation to that pricing envelope, including as part of any

	clarification or any BAFO (in each case, to the extent such information is not rejected by the Buyer).
RFP Pricing Workbook or Pricing Workbook	Means a Microsoft Excel™ which is used by a RFP Respondent to propose its price for its Response. A Pricing Workbook comprises multiple worksheets for completion by the RFP Respondent.
RFP Process	Means the process for this RFP, as described in section 5 of this Part 2.
RFP Requirements	Means the requirements set out in Part 3 of this RFP.
RFP Response	Means the RFP Respondent's response for the Ticketing Solution to this RFP, including the RFP Respondent's completed and submitted RFP Response Form, the Non-price Attributes Envelope, the RFP Pricing Envelope, and all other information submitted by or on behalf of a RFP Respondent to the Buyer or their representatives in relation to this RFP, including at any presentation, as part of any due diligence, or during negotiations, through any clarification and/or in any BAFO (in each case, to the extent such information is not rejected by the Buyer).
RFP Respondent	Means a Shortlisted Respondent that has submitted a RFP Response.
RFP-Terms or Terms and Conditions	Means the process, terms and conditions that apply to this Request for Proposal, as described in section 6 of this Part 2.
ROI	Means the Registration of Interest for Project NEXT that was issued in June 2018.
ROI-Terms	Means the process, terms and conditions that apply to the ROI, as described in sections 5 and 6 of Part 2 – Engagement Process of the ROI.
Shortlisted Respondent	Means a party that the Buyer notified was shortlisted under the ROI process.
Ticketing Solution	Means the ticketing solution part of the National Ticketing Solution, as described further in Part 3 of this RFP, which is the subject of this procurement process and will be procured separately to the procurement process for the Financial Services.
TSMSA	Means the Ticketing Solution Master Services Agreement a draft of which is attached to Part 3.
TSO	Means a transport services owner, which includes a local government authority in New Zealand who is responsible for the procurement, provision and management of public transport services in a region or district, and also includes any other person who the Buyer (or their nominee) nominate or authorise to receive access to the National Ticketing Solution.
TTSC	Means the total ticketing solution cost, as described in section 4.3 <i>Evaluation criteria on page 13</i> .

Unless the context requires otherwise, in this Part 2:

- (a) a reference to a Part is to Part 1, Part 2, Part 3 or Part 4 (as applicable) of this RFP document set.
- (b) a reference to a section is to a section in this Part 2.

- (c) a reference to “you” or “your” means the Shortlisted Respondent or RFP Respondent and Shortlisted Respondent’s or RFP Respondent’s, as applicable.
- (d) a reference to “we” or “ours” means the Buyer or Buyer’s, as applicable.
- (e) a reference to a sub-contractor includes a reference to a consortium member and vice versa.
- (f) any word importing the singular includes the plural and vice versa.
- (g) any word importing any gender includes the other gender.
- (h) the words “include”, “includes” and “including” are to be construed without limitation.
- (i) any word importing a person includes companies, other corporations and any body of persons (whether incorporated or unincorporated).
- (j) any reference to a person includes the legal personal representatives, successors, and permitted assignee of that person.
- (k) headings are for convenience only and shall not form part of this Part 2.
- (l) any reference to any statute or regulation is a reference to that statute or regulation as amended or replaced from time to time.
- (m) any reference to a section, Part, or document is a reference to that section, Part, or document as amended or replaced from time to time.

END