

Request for Proposal (RFP)

By: Sexual Wellbeing Aotearoa

For: Reproductive Life Plan – procurement project

Date RFP released: 22 November 2024

Deadline for Questions: 13 December 2024

Deadline for Proposals: 5pm Wednesday 8 January 2025

Sexual Wellbeing Aotearoa
Level 2
205 Victoria Street
PO Box 11 515
Wellington 6142

The opportunity

This RFP is issued by Sexual Wellbeing Aotearoa, referred to below as “the Buyer” or “we” or “us”.

What we need

Sexual Wellbeing Aotearoa wants to develop a reproductive life plan linked to our website. We are seeking a provider with the technical expertise to help us build an innovative decision-tree tool. We are open to applications from both providers who have capability exclusively to develop the tool/platform, and from providers who could develop both the tool/platform and content. We aren't settled on what the tool could be – it could be a game or something else.

The tool must be fun, engaging, dynamic – we want this tool to connect us with audiences who may not know about us or who may not have thought about these kinds of decisions – but we want to do it in an interesting and innovative way.

As we have detailed below, content themes for the platform/tool have been loosely developed. We expect these will be fully developed alongside the platform development process. We will implement a content review process with all content checked by subject matter experts.

What we don't want

We do not want a solution that is not linked to/hosted from the Sexual Wellbeing Aotearoa website.

What's important to us?

As the buyer, we are looking to deliver an innovative product that is engaging and accessible to a wide range of audiences. The tool must allow users to save the results of their entry in a way that can be accessed in the future. The tool must reflect our organisational vision of Whakamanahia - equity, access, and choice. We are excited about this project, and we are looking for a partner agency who shares our excitement at the possibility of this project to take a complicated issue and make it informative, easy to access, and relevant to a range of audiences. And, as above, the tool must be fun, engaging, and dynamic.

Why should you bid?

Sexual Wellbeing Aotearoa is New Zealand's only national provider of sexual and reproductive health services. We have a new brand and a new aspiration to be doing our work differently. You should bid for this project if you have a passion for innovation, for information and education done differently and done well. We think people need all the information to support them to make choices for themselves – this tool is a unique opportunity to deliver on that. If you have a clever solution to this complex information project, you should submit a bid.

A bit about us

Just as there was in 1936, when Sexual Wellbeing Aotearoa was established, there is still unmet need for essential sexual and reproductive health services, information, and education in Aotearoa

New Zealand. Sexual Wellbeing Aotearoa is committed to ensuring equitable access to quality, culturally responsive sexual and reproductive health services, information, and education.

Our work is underpinned by our vision of Whakamanahia – equity, access and choice and our mission to be Aotearoa’s leading provider and courageous advocate for equitable sexual and reproductive wellbeing and rights. The four pillars of our strategic framework are to: achieve equity; build capacity and capability; be a courageous advocate; and, deliver excellence.

Sexual Wellbeing Aotearoa generally offers the following sexual and reproductive health services: contraception, sexually transmitted infection (STI) testing and treatment, menstrual and menopause management, pregnancy testing, abortion, cervical screening and investigation of some cancers. While some sexual and reproductive health services treat illness or health problems, most are preventative and promote good health and wellbeing. They prevent cancers, unintended pregnancy, and infection. Sexual and reproductive health care is essential health care.

Sexual and reproductive health services are necessary for people to exercise their human rights including self-determination, bodily autonomy, tino rangatiratanga and mana motuhake. Sexuality is a part of human life, and people have a right to enjoy their sexuality including deciding things like if and when to have a child and taking steps to prevent sexually transmitted infections (STIs). Sexual and reproductive health services help people to have a good quality of life and to make decisions about their bodies and their future.

Some services are particularly important to promoting gender equality in society. For example, ensuring women, girls, and people with diverse gender identities can plan and space pregnancy and effectively manage their periods is necessary for equal participation in society and to ensure equitable social, economic and health outcomes.

People use sexual and reproductive health services over the course of their lives. As young people explore their sexuality, they may need access to sexual and reproductive health services so they can make positive, informed decisions about their own sexual and reproductive health. As young people develop, they increasingly take on greater responsibility for their own decisions. Young people in New Zealand have a legal right to confidential reproductive and sexual health care, as long as they are able to fully understand the risks and benefits and can give informed consent.

Unfortunately, in Aotearoa there are many known barriers to sexual and reproductive health services. Barriers include cost, the location of services, low health literacy, misinformation, and poor coordination between services. There is a lack of health providers who are trained to provide a full range of sexual and reproductive health services, including all types of contraceptive options and non-judgemental STI testing. These barriers contribute to poor and inequitable sexual and reproductive health outcomes, including high rates of sexually transmitted infections (STIs) and unintended pregnancy.

Our ambition for the Reproductive Life Plan is that it is a tool that helps breaks down some of those barriers by providing reliable and unbiased information in a way that people can choose to use.

Key Information

Context

This Request for Proposals (RFP) is an invitation to submit a Proposal for the Reproductive Life Plan contract opportunity.

Our timeline

Here is our timeline for this RFP (all are New Zealand times and dates):

Respondent briefing session	10am 28 November 2024
Deadline for questions	5pm 13 December 2024
Deadline for us to answer questions	20 December 2024
Deadline for Proposals	5pm 8 January 2025
Presentations by shortlisted Respondents (indicative)	13 January 2025
Successful Respondent(s) notified (indicative)	15 January 2025
Expected start date of Contract (indicative)	20 January 2025

How to contact us

Contact us through our Point of Contact via email.

a. Our Point of Contact:

Name: Sue Reid

Title/role: Communication Manager

Email address: tenders@sexualwellbeing.org.nz

b. To register for our Respondent briefing session, contact our Point of Contact by email.

Developing and submitting your Proposal

- a. This is a closed, competitive tender process.
- b. Take time to read and understand the RFP.
- c. Take time to understand Our Requirements in this document.
- d. Take time to understand how your Proposal will be evaluated.
- e. If you have questions, ask our Point of Contact before the Deadline for Questions.
- f. Use the Response Form to submit your Proposal.
- g. Complete and sign the declaration at the end of the Response Form.
- h. Check you have provided all the necessary information in the correct format and order.
- i. Submit your Proposal before the Deadline for Proposals.

Address for submitting your Proposal

Submit your Proposal to the following address: tenders@sexualwellbeing.org.nz

Make sure you include all attachments and reference material.

Our RFP Terms

a. Offer Validity Period

By submitting a Proposal, the Respondent agrees that their offer will remain open for three calendar months from the Deadline for Proposals.

b. RFP Terms

By submitting a proposal, the Respondent agrees to the RFP-Terms.

Late changes to the RFP or RFP process

After releasing the RFP, if we need to change anything or provide additional information, we will let all Respondents know by contacting Respondents by email.

Defined terms

You can find definitions at the back of the RFP-Terms.

Our Requirements

This process is to identify a provider who can deliver a decision tree tool (a Reproductive Life Plan) linked to the Sexual Wellbeing Aotearoa website. Additional detail about possible content has been pasted below. We hope this will provide context for what we want the tool to achieve.

The key question a person will be guided through to answer, is: ***How can you attend to your sexual and reproductive health needs and wellbeing today and in the future?***

To begin this tool, a person will be asked clarifying questions that will direct them to a location on the decision tree (for example, your age, type of sexual activity, type of reproductive system etc). The person will then be directed through key topics that will indicate information for them to consider and act upon.

We have identified five key topics to guide the person through (in no order). These are not confirmed, topics will be confirmed through the development process.

- 1) Reproductive desires (fertility desires, contraception options, etc)
- 2) STI prevention (prevention, treatment, etc)
- 3) Menstruation (managing symptoms, cycles, identifying abnormalities, etc)
- 4) Health Behaviour related to SRH (smoking, alcohol consumption, diet, supplement, etc)
- 5) Cancer prevention (reproductive cancers, HPV, prevention, and signposting for further information, etc)
- 6) Life course changes (puberty, perimenopause, menopause, erectile dysfunction, etc).

Threaded among the topics will be additional information on the following. These are not confirmed, topics will be confirmed throughout the development process.

- a. Anatomy (myth busting and information given about reproductive organs, health, and the body)
- b. Sexual behaviour (information about staying healthy with different types of sexual behaviour, for example anal sex)
- c. Sexual desire (how this may wane or wax over one's lifetime and within a relationship)
- d. Pleasure (normalising talking about pleasure and considering how it factors into aspects of sexual and reproductive health decision-making and behaviour)
- e. Relationships (healthy open communication about sexual wellbeing, STIs, contraception)

The purpose of the tool is to provide individuals with the opportunity to reflect on their current and future reproductive goals and learn more about what they can do to align their health behaviours with those goals. With increased awareness or critical information about their sexual and reproductive health, they will be better equipped to avoid unintended pregnancies and sexually transmitted infections, plan pregnancies, engage with sexual health services for screening and vaccination, and increase overall sexual wellbeing. In short, we are developing a sexual and reproductive health and wellbeing tool.

In summary, we are looking to deliver a decision tree/conversation tool/game that is innovative and engaging to a range of audiences. The findings of an initial workshop are attached to the RFP to provide additional background for responders.

The key objective of this procurement is to identify a supplier who can deliver the RLP tool on time, on budget and to our specifications. Critically, the tool must be compatible with the Sexual Wellbeing Aotearoa website which will be the predominant "point of entry" to the tool.

Background

This procurement relates to Sexual Wellbeing Aotearoa's commitment to equity, access and choice. We are committed to ensuring people have access to good information, especially information they can act on in their own interests. Reproductive life tools are in use in some clinical settings internationally but not as a self-service web tool. The product has the opportunity to be a global first.

More detail can be found in the briefing document produced by Sexual Wellbeing Aotearoa as part of planning for this project.

Key outcomes

The key outcome from this RFP process is to find a partner agency to work with us on the development of this tool. The supplier will also need to work alongside the agency that developed and hosts our website.

What we require from a Respondent:

a. Innovative solution

We are seeking a solution that is innovative, fun, dynamic and engaging. We want to use technology to help deliver a tool that has broad appeal and helps us engage with an audience that might be new to our work. We are seeking Respondents that can demonstrate they have the technical skills to deliver a product that meets our requirements. The proposal should provide at least one explicit example of a cutting-edge use of technology to meet an interactive communication or education need.

b. Robustness of platform

We are seeking a tool/platform that is robust and requires minimal ongoing technical support. We are seeking Respondents that can design and build the RLP tool by the 30 May 2025 deadline. The RFP should specify what, if any, maintenance costs the product would require beyond that time frame.

c. Understanding of the requirements

We are seeking a provider who understands the realities of working with a not-for-profit agency. Additionally, we are seeking someone who understands the issues surrounding sexual and reproductive health and rights. We support the right of people to end a pregnancy and we offer an early medical abortion service at two of our clinics. A provider needs to support these principles to be able to work effectively with us on this project.

d. Operational and financial systems to manage delivery

It is important to us that we can trust our supplier. We need to understand that they are a financially viable business with the resources and internal systems to deliver this project.

e. Demonstrated ability to work with web company

The tool/platform for this project will be linked to/hosted by the Sexual Wellbeing Aotearoa website. We are looking for a provider who has a track record in working with third parties to deliver projects.

f. Size and Structure

Our internal resources are limited. We need a provider who can do the heavy lifting on this project. We are looking for solutions that are innovative whilst recognising that we are delivering on a not-for-profit budget.

g. Track record

We are seeking Respondents that have a track record in developing innovative and engaging platforms/tools for a broad audience. With a delivery deadline of 30 May 2025, they need to demonstrate they can deliver quickly while maintaining a high quality and innovative product. We are looking for respondents who have a track record of managing projects to meet milestones, budgets and timeframe. Experience working with a not-for-profit organisation is also valuable.

Other information

Payment will be on successful delivery of milestones.

Contract term

We expect that the Contract will commence 20 January 2025 and expire on delivery of the product 30 May 2025. We would consider an approach that has a beta version of the tool ready for launch on 30 May with a subsequent iteration of the RLP delivered at a later date. We want the contract signed before Christmas so we can begin work early in the New Year.

Contract value

We are not specifying a contract value in this RFP document. We are looking for suppliers to pitch for this work at the price they have identified as offering the most cost-effective solution.

Key deliverables

Description	Indicative date for delivery
Detailed design – concepts and requirements of system	14 February 2025
Tool is named	28 February 2025
Sexual Wellbeing Aotearoa concept sign-off	1 March 2025
Workstreams identified	1 March 2025
Platform/tool development	1 March to 20 May 2025
Project implemented tool live	30 May 2025

Other tender documents

These documents form part of this RFP:

- a. RFP Response form.
- b. Summary of initial reproductive life plan workshop.

Our Evaluation Approach

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

Pre-conditions

Each Proposal must meet the following pre-conditions. We will not consider Proposals which fail to meet these conditions.

#	Pre-conditions
1.	The Reproductive Life Plan tool must be hosted on/linked to the Sexual Wellbeing Aotearoa website.

Evaluation model

The evaluation model is weight attributed. Price is a weighted criterion. All Proposals that are capable of full delivery on time will be considered. The Proposal that scores the highest will likely be selected as the Successful Respondent.

Overall assessment:

All Proposals that meet the pre-conditions are evaluated using the evaluation model. Scores will assist in deciding the Successful Respondent(s), but ultimately the decision will be based on which Proposal(s) we consider will provide the best overall value.

Evaluation criteria

We will evaluate Proposals which meet all pre-conditions according to the following criteria and weightings.

Criterion	Weighting
Innovative solution	25%
Robustness of platform	15%
Understanding of the requirements	15%
Operational and financial systems to manage delivery	15%
Cost	15%
Demonstrated ability to work with web company	5%
Size, structure	5%
Track record in delivering similar projects	5%
Total weightings	100%

Rating scale

The panel will use this rating scale to evaluate suppliers' bids against the criteria.

Description	Definition	Rating
Excellent	Exceeds the requirement. Exceptional demonstration by the supplier 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.	9-10
Good	Satisfies the requirement with minor additional benefits. Above average demonstration by the supplier 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.	7-8
Acceptable	Satisfies the requirement. Demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with supporting evidence.	5-6
Minor reservations	Satisfies the requirement with minor reservations. Some minor reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	3-4
Serious reservations	Satisfies the requirement with major reservations. Considerable reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	1-2
Unacceptable	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the supplier has the ability, understanding, experience, skills, resource and quality measures required to provide the goods/services, with little or no supporting evidence.	0

Price

If a Respondent offers a substantially lower price than other Proposals, we may make enquiries or require additional evidence to verify that the Respondent can meet all the Requirements and conditions of the Proposed Contract for the price quoted.

Note: Any claims made about price must be clear, accurate and unambiguous. Prices must include or be clear about Goods and Services Tax (GST).

Due diligence

For shortlisted Respondents, we may:

- a. reference check the Respondent and any named personnel
- b. make other checks against the Respondent e.g. a search of the Companies Office or NZBN
- c. interview Respondents
- d. request Respondents make a presentation
- e. arrange a site-visit to the Sexual Wellbeing Aotearoa National Office and a clinic site.

- f. test products
- g. undertake a credit check

Pricing information

Pricing information provided by Respondents

- a. Respondents must use the Pricing Schedule provided.
- b. The Pricing Schedule must show a breakdown of all costs, fees, expenses and charges. It must also clearly state the total Contract price exclusive of GST.
- c. Where the price is based on fee rates, specify all rates, either hourly or daily or both as required.
- d. Respondents must show how they will manage risks and contingencies related to the delivery of the Requirements.
- e. Respondents must document all assumptions and dependencies that affect its pricing and/or the total cost to us. In other words, if the Respondent would expect us to pay more than the quoted price or estimate if particular assumptions or dependencies are not satisfied, the Respondent must call out those assumptions and dependencies.
- f. Respondents must tender prices in NZ\$. Unless otherwise agreed, we will arrange contractual payments in NZ
- g. Respondents may submit a pricing approach that is different to the Pricing Schedule, however, the Respondent must also submit a Pricing Schedule that conforms.
- h. If two or more Respondents intend to submit a joint Proposal the Pricing Schedule must include all costs, fees, expenses and charges chargeable by all Respondents. Invoicing must be issued only by the lead agency who will be responsible for payments to their partner agency.

Our Proposed Contract

Proposed Contract

The Proposed Contract that we intend to use for this procurement is attached to this RFP.

In submitting your Proposal you must let us know if you wish to question or negotiate any of the terms or conditions in the Proposed Contract or wish to negotiate new terms or conditions.

The RFP Response Form contains a section for you to state your position. If you do not state your position, you will be deemed to have accepted the terms and conditions in the Proposed Contract in full.

RFP Terms

You can find definitions at the end of this Section.

Preparing and submitting a Proposal

1. Preparing a Proposal

a. Respondent obligations

The Respondent must:

- i. read the complete RFP and any additional information provided and referred to by the Buyer
- ii. respond using the RFP Response Form and Pricing Schedule provided and include all information the Buyer requests
- iii. consider the risks and contingencies relating to the delivery of the RFP requirements and outline how it will manage those risks and contingencies
- iv. include any assumptions, dependencies and/or qualifications in the Proposal, including anything that may limit its obligations or increase its quoted pricing or cost estimates
- v. quote prices in NZ\$, exclusive of GST
- vi. obtain independent advice before submitting a Proposal (if necessary)
- vii. make sure the Proposal is correct and the Proposal pricing is sustainable, i.e. covers the whole-of-life of the Contract, not just the initial term.

b. Process acceptance

By submitting a Proposal, the Respondent accepts the RFP-Terms.

c. No obligation, no penalty

Suppliers are not expected or required to submit a Proposal in order to remain on any prequalified or registered supplier list.

2. Offer Validity Period

The Proposal must remain open for the Offer Validity Period stated in the RFP.

3. Respondent questions

a. The Respondent must make sure they understand the RFP.

b. If the Respondent has any questions or needs clarification, they:

- i. must submit questions before the Deadline for Questions
- ii. must clearly indicate any commercially sensitive information in their questions RFP
- iii. may withdraw their questions at any time.

c. When the Buyer receives questions before the Deadline for Questions:

- i. The Buyer will respond on or before the Deadline for Answers.
- ii. The Buyer may provide details of both the questions and the answers to other Respondents. In these circumstances the Buyer will summarise the questions and will not disclose the Respondent's identity.
- iii. The Buyer will not release the Respondent's commercially sensitive information. However, if the Buyer considers the information to be significant for all Respondents,

the Buyer may modify the question and release both this and the answer to all participants in the tender process. In that case the Buyer will first give the Respondent the opportunity to withdraw the question or remove any of their own commercially sensitive information.

4. Submitting a Proposal

- a. The Respondent must ensure the Buyer receives the Proposal at the correct address on or before the Deadline for Proposals.
- b. After the Deadline for Proposals, the Buyer will acknowledge receipt of the Proposal.
- c. The Respondent must ensure that all information they provide to the Buyer:
 - i. is true, accurate and complete
 - ii. is not misleading in any material respect
 - iii. does not contain material that infringes a third party's intellectual property rights
 - iv. is identical, if they supply both hard and soft copy Proposals.
- d. The Buyer may rely on the Proposal and all information provided by the Respondent during the RFP process (e.g. all correspondence and negotiations).

5. Evaluation panel

The Buyer's evaluation panel will evaluate the Proposal. The Buyer may have different evaluation panel members for evaluating different aspects of the Proposal. The Buyer may include independent advisors as evaluation panel members to evaluate some or all aspects of the Proposal.

6. Third party information

- a. The Buyer may request information from a third party where the Buyer considers the information may be relevant to the RFP process, excluding commercially sensitive information about pricing or contract terms.
- b. If this occurs, the Respondent:
 - i. authorises the Buyer to collect that information from the relevant third party (e.g. a referee or client), and authorises the third party to release it to the Buyer
 - ii. agrees the Buyer may use that information in its evaluation of the Proposal
 - iii. must ensure that all referees listed in the Proposal agree to provide a reference.

7. Clarification of Proposal

- a. The Buyer may ask the Respondent for more information or clarification on the Proposal at any time during the RFP process.
- b. The Buyer need not ask all Respondents for the same clarification.
- c. The Respondent agrees to provide the information or clarification as soon as possible, in the format requested by the Buyer.
- d. If the Respondent does not provide adequate information or clarification within a reasonable time (as determined by the Buyer), the Buyer may remove the Proposal from its evaluation process.

8. Evaluation and shortlisting of Proposal

- a. The Buyer will evaluate the Proposal according to the Evaluation Approach.
- b. The Buyer may adjust its evaluation after considering additional information or clarification, as described above.

9. Negotiations

- a. The Buyer may invite one or more Respondents to enter into negotiations with a view to forming a contract.
- b. During negotiations, the Buyer may:
 - i. discontinue negotiations with one Respondent and then initiate negotiations with another Respondent
 - ii. negotiate concurrently with more than one Respondent.
- c. If negotiating concurrently with more than one Respondent, the Buyer must:
 - i. treat each Respondent fairly
 - ii. prepare a separate plan for each negotiation
 - iii. hold a separate negotiation meeting with each Respondent
 - iv. advise each relevant Respondent that concurrent negotiations will be carried out.
- d. Unless the Buyer agrees otherwise, the Respondent agrees that any legally binding contract that may result from the negotiations will be essentially in the form specified in the RFP (Proposed Contract).

10. Notification of outcome

During the 30 Business Days after the Contract has been signed, the Buyer will let all unsuccessful Respondents know the name of the Successful Respondents, if any.

11. Issues and complaints

- a. The Respondent may, in good faith, raise with the Buyer any issue or complaint about the RFP or RFP process at any time.
- b. When this occurs:
 - i. the Buyer will consider and respond promptly and impartially to the Respondent's issue or complaint
 - ii. both the Respondent and the Buyer must do their best to resolve the issue or complaint
 - iii. the Buyer will not allow the issue or complaint to prejudice the Respondent's participation in the RFP process, or limit or affect the Respondent's future procurement opportunities.

12. Buyer's Point of Contact

- a. The Respondent must direct all RFP enquiries to the Buyer's Point of Contact in the RFP.
- b. The Respondent must not approach any other employee or other representative of the Buyer, directly or indirectly, for information on any aspect of the RFP.

- c. Only the Point of Contact, or a person authorised by the Buyer, may communicate with the Respondent on any aspect of the RFP. The Buyer will not be bound by any statement made by any other person.
- d. The Buyer may change its Point of Contact at any time. The Buyer will notify the Respondent of any change by email.
- e. If the Respondent has an existing contract with the Buyer, the Respondent must not use its business-as usual communications to contact the Buyer regarding the RFP.

13. Conflict of Interest

- a. The Respondent must complete the Conflict of Interest declaration in the RFP Response Form. If a joint Proposal is being submitted, each party must complete the Conflict of Interest declaration separately.
- b. If a Conflict of Interest arises during the RFP process, the Respondent must inform the Buyer immediately.
- c. The Buyer may exclude a Respondent from the RFP process if a material Conflict of Interest arises.

14. Ethics

- a. The Respondent must not attempt to influence, reward or benefit any representative of the Buyer, nor offer any form of personal inducement, in relation to the RFP or the RFP process.
- b. To maintain a fair and ethical RFP process, the Buyer may require additional declarations or other evidence from the Respondent, or any other person, at any time.

15. Anti-collusion and bid rigging

- a. By submitting the Proposal, the Respondent warrants that:
 - i. the Proposal has not been prepared in collusion with a Competitor
 - ii. it will not engage in deceptive or improper conduct during the RFP process.
- b. The Buyer may exclude the Respondent from the RFP process if a breach of these warranties occurs.

16. Confidential Information

- a. Without limiting any other confidentiality agreement between them, the Buyer and the Respondent will both take reasonable steps to protect the other party's Confidential Information.
- b. Except as permitted by the other provisions in these RFP terms, neither party will disclose the other party's Confidential Information to a third party without that other party's prior written consent.
- c. Each party may each disclose the other party's Confidential Information to anyone who is directly involved in the RFP process on that party's behalf, but only for the purpose of participating in the RFP. This could include (but is not limited to) officers, employees, consultants, contractors, professional advisors, evaluation panel members, partners, principals or directors. Where this occurs, the disclosing party must take reasonable steps to ensure the third party does not disclose the information to anyone else and does not use the information for any purpose other than participating in the RFP process.

- d. The Buyer will not be in breach of its obligations if it discloses Confidential Information to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour.

17. Costs of participating in the RFP process

Except as otherwise stated in the RFP, the Respondent must meet their own costs associated with the preparation, presentation and negotiation of the Proposal.

18. Ownership of documents

- a. The RFP and its contents remain the property of the Buyer. All Intellectual Property rights in the RFP remain the property of the Buyer or its licensors.
- b. The Buyer may request the immediate return or destruction of any RFP documents and any copies, in which case the Respondent will comply in a timely manner.
- c. All documents forming part of the Proposal will, once they are delivered to the Buyer, become the property of the Buyer. The Proposal will not be returned to the Respondent.
- d. Intellectual Property rights in the Proposal remain the property of the Respondent or its licensors.
- e. The Respondent grants to the Buyer a licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process, including keeping appropriate records.

19. Limited rights and obligations

- a. Except as stated otherwise, nothing in the RFP, these RFP Terms or the RFP process creates a contract or any other legal relationship between the Buyer and Respondent, unless and until they enter into a Contract.
- b. The following are binding on the Respondent:
 - i. The Respondent's signed declaration (contained in the RFP Response Form).
 - ii. The Respondent's obligation to ensure the Proposal remains open for the Offer Validity Period.
 - iii. The Respondent's obligations under paragraph 4.

Nothing in this paragraph (19) takes away from any rights or remedies the Buyer may have in relation to the Respondent's statements, representations or warranties in the Proposal or in correspondence or negotiations with the Buyer.

20. Exclusion from the RFP process

- a. The Buyer may exclude the Respondent from the RFP process if the Respondent:
 - i. has not provided requested information in the correct format
 - ii. has breached the RFP-Terms and the Buyer considers the impact of the breach is more than trivial (this applies whether or not the provision in question is itself legally binding on the Recipient)
 - iii. included a material error, omission or inaccuracy in the Proposal
 - iv. is in bankruptcy, receivership or liquidation
 - v. has made a false declaration
 - vi. has a conviction for a serious crime or offence; or
 - vii. is a person or organisation designated as a terrorist by New Zealand Police.

- b. The Buyer may exclude the Respondent from the RFP process if:
 - i. there was a serious performance issue in a previous, or current, contract delivered by the Respondent
 - ii. the Buyer considers the integrity of the Respondent is in doubt due to the Respondent's professional misconduct or an act or omission; and/or
 - iii. the Buyer becomes aware of any other matter that materially diminishes the Buyer's trust in the Respondent.

21. Buyer's additional rights

- a. Changes to the RFP
 - i. The Buyer may amend, suspend, cancel or re-issue the RFP, or any part of it, so long as it notifies the Respondent.
 - ii. The Buyer may change material aspects of the RFP, such as the timeline, Requirements or Evaluation Approach, provided it gives the Respondent time to respond to update its Proposal in relation to the changes.
- b. Timeline
 - i. The Buyer may accept a late Proposal if it is the Buyer's fault it is late, or if the Buyer considers there is no material prejudice to other Respondents in accepting a late Proposal.
 - ii. The Buyer may answer a question submitted after the Deadline for Questions and notify all Respondents about the submission of the question and the answer.
- c. The Proposal
 - i. The Buyer may accept or reject any Proposal, or part of a Proposal. This includes any non-compliant, non-conforming or alternative Proposal.
 - ii. The Buyer may decide not to accept the lowest price conforming Proposal, unless stated otherwise in the Evaluation Approach.
- d. RFP Process
 - i. Subject to earlier paragraphs, the Buyer may liaise or negotiate with any Respondent without informing, or doing the same, with any other Respondent.
 - ii. The Buyer may provide Respondents with information arising from questions about the RFP.
 - iii. The Buyer may withhold information arising from questions about the RFP. This may be the case if the information is unnecessary, is commercially sensitive, is inappropriate to supply at the time of the request or cannot be released for legal reasons.
 - iv. The Buyer may waive requirements or irregularities around the RFP process if the Buyer considers it appropriate or reasonable to do so.
 - v. The Buyer may amend the Proposed Contract at any time, including during negotiations with a Respondent.
 - vi. The Buyer may decide not to enter into a Contract with any Respondent.

22. Consortia and unbundling

The Buyer may make its selection conditional on the Respondent agreeing to:

- a. the Buyer selecting the Respondent to deliver the Requirements as a joint venture or consortium with another Respondent selected by the Buyer, and/or
- b. the Buyer selecting individual elements of the Proposal that can be delivered separately, unless the Proposal specifically states that the Proposal, or the relevant elements, must be taken collectively.

23. New Zealand law

The laws of New Zealand govern the RFP. Each Respondent agrees New Zealand courts have non-exclusive jurisdiction to rule in any dispute concerning the RFP or the RFP process. The Respondent agrees that it cannot bring any claim in relation to the RFP except in a New Zealand court.

24. Disclaimer

- a. Nothing contained or implied in the RFP, or RFP process, or any other communication by the Buyer to the Respondent is to be construed as legal, financial or other advice.
- b. The Buyer will endeavour to provide accurate information in any communication, but the Respondent accepts this information is not independently verified and may not be up to date.
- c. The Buyer will not be liable in contract, tort, equity, or in any other way for any direct or indirect damage, loss or cost incurred by the Respondent or any other person in respect of the RFP process, whether as a result of the Buyer exercising its rights, the Buyer's negligence or RFP Terms, the Buyer failing to select the Respondent as the Successful Respondent, or any other cause.
- d. To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer, its agents and advisors in connection with the RFP process, to all Respondents combined, is NZ\$5,000 or (if known and greater than \$5,000) 5% of the estimated value of the proposed Contract as determined by the Buyer prior to the release of the RFP.
- e. The limitations and exclusions in paragraphs c and d above do not apply to any liability the Buyer may have for breach of confidentiality or infringement of the Respondent's intellectual property rights.

25. Precedence

- a. Any conflict or inconsistency in the RFP will be resolved by giving precedence in the following descending order:
 - i. Key Information section of the RFP
 - ii. these RFP-Terms
 - iii. all other sections of the RFP document
 - iv. any additional information or document provided by the Buyer to Respondents 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 more recent information or document will prevail.

Definitions

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

Business Day	Any week day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day.
Buyer	Sexual Wellbeing Aotearoa
Competitors	Any other business that is in competition with a Respondent either in relation to the goods or services sought under the RFP or in general
Confidential Information	Information acquired by the other party (Recipient) from the Provider in connection with the RFP process, where that information: <ul style="list-style-type: none"> a. is by its nature confidential b. is marked at the time of disclosure to the Recipient as 'confidential', 'in confidence', 'restricted', 'sensitive', 'secret' or 'top secret', and/or c. the Recipient knows, or ought to know, is confidential to the Provider or a third party who supplied it to the Provider. However, this does not include information that is publicly available through no fault of the Recipient, or that the Recipient acquired entirely independently of the Provider.
Conflict of Interest	A Conflict of Interest arises if personal or business interests, relationships or obligations of the Respondent or any of its personnel do, could, or could be perceived to: <ul style="list-style-type: none"> a. conflict with the Respondent's obligations to the Buyer under the RFP or in the provision of the goods or services, and/or b. call into question the independence, objectivity or impartiality of any person involved in the RFP process on behalf of the Buyer. <p>A Conflict of Interest may be:</p> <ul style="list-style-type: none"> a. actual: where the conflict currently exists b. potential: where the conflict is about to happen or could happen, or c. perceived: where other people may reasonably think that a person is compromised.
Contract	Any written Agreement entered into by the Buyer and a Successful Respondent for the delivery of the Requirements.
Deadline for Proposals	The deadline for delivering or submitting Proposals to the Buyer as stated in the RFP.
Deadline for Questions	The deadline for submitting questions to the Buyer as stated in the RFP.
Evaluation Approach	The approach used by the Buyer to evaluate Proposals as described in the RFP.
Intellectual Property	All industrial and intellectual property rights whether conferred by statute, at common law or in equity, including (but not limited to) copyright, trademarks, designs and patents.
Offer Validity Period	The period of time when a Proposal is held open by the Respondent for acceptance by the Buyer as stated in the RFP.

Pricing Schedule	The form prescribed by the Buyer and used by a Respondent to submit its pricing for the RFP, duly completed and submitted by a Respondent as part of the Proposal.
Point of Contact	The Buyer and each Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. The Buyer's Point of Contact is identified in the RFP. The Respondent's Point of Contact is identified in its Proposal.
Proposal	The response a Respondent submits in reply to the RFP. It comprises the RFP Response Form, the Pricing Schedule and all other information submitted by a Respondent.
Proposed Contract	The contract terms and conditions proposed by the Buyer for the delivery of the Requirements as described in the RFP.
Registration of Interest	A formal request by a Buyer asking potential Respondents to register their interest in a procurement. It is the first step in a multi-step tender process.
Request for Proposals (RFP)	The RFP comprises the RFP document (including the RFP-Terms) and any other schedule, appendix or document attached to the RFP, and any subsequent information provided by the Buyer to Respondents through the Buyer's Point of Contact.
Requirements	The Buyer's requirements for goods and/or services as described in the RFP.
Respondent	A person, company or organisation that submits a Proposal in response to the RFP. The term Respondent includes each member of any consortium.
RFP Response Form	The form and declaration prescribed by the Buyer and used by a Respondent to respond to the RFP, duly completed and submitted by a Respondent as part of the Proposal.
RFP-Terms	Terms as set out in the RFP, together with any additions or amendments to those RFP Terms specifically identified in the RFP.
Successful Respondent	Following the evaluation of Proposals and successful negotiations, any Respondent who is awarded a Contract to deliver all or part of the Requirements.