

	REQUEST FOR PROPOSAL (The Treasury as Purchaser)
	Extension of Mixed Ownership Model – Joint Lead Managers Panel and First Transaction

TREASURY DIRECTORY	
LOCATION	The Treasury P O Box 3724 1 The Terrace – Level 5 Wellington 6140
CONTACT	<ul style="list-style-type: none"> • All contact must be through <u>Adam.Wood@treasury.govt.nz</u> • No other member of Treasury is to be directly contacted or approached regarding this RFP
CONTRACT AUTHORITY	Deputy Secretary of the Treasury

ACTION ITEMS / DEADLINES	
<ul style="list-style-type: none"> • Release of RFP: • Deadline for questions/queries (through Adam.Wood@treasury.govt.nz): noon on • Deadline for submitting Confidentiality Undertaking to obtain JLM Engagement Agreement: noon on • Answers to any questions posted to GETS: • Closing time for proposals to be received by The Treasury: noon on • Notification to successful Respondents who have been appointed to JLM Panel • Short-listed Respondents for the first transaction, if any, notified: • Presentations by short-listed respondents (if any) • Commencement of negotiations with Preferred Respondents: • Commencement of contract: 	15 December 2011 20 December 2011 20 December 2011 22 December 2011 4 January 2012 9 January 2012 10 January 2012 16 to 17 January 2012 19 January 2012 25 January 2012
<u>Note:</u> any of the above may be changed at the sole discretion of The Treasury	

PROPOSAL SUBMISSION	
Address for proposals:	P O Box 3724 1 The Terrace – Level 5 Wellington 6140
Tenders are to be clearly labelled:	Tender ref: Commercial Transactions Group Tender name: Extension of Mixed Ownership Model – Joint Lead Managers Panel and First Transaction
Validity period	Proposals must remain valid for a minimum of 6 months after the closing date
Proposal contents and packaging	<ul style="list-style-type: none"> • Respondents are to submit one signed original plus four complete hard copies and 1 CD rom electronic copy of their proposal in a sealed package • Proposals should be presented in no less than 10 point font and be no more than 50 single sided pages. This excludes other supporting information which can be included as attachments, but which may not be evaluated at the sole discretion of the Treasury • Proposals are to be sequentially page numbered. All sections and subsections should be numbered • Proposals should be double sided • Supporting material (e.g. brochures, etc) is not required unless material to the response
Lodging a proposal	<ul style="list-style-type: none"> • Fax or email copies of proposals will not be accepted

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Terms and Conditions for this RFP

1. **Rights Reserved by The Treasury:** In addition to any other condition or procedure described in this RFP, the Treasury reserves the unrestricted right at any time to:
- restrict the supply or access to any of its personnel, information or property;
 - exclude any Respondent or other provider from this RFP process for any reason;
 - suspend or cancel this RFP process by notice and/or decide not to enter any contract with any person;
 - amend this RFP or associated documents or any condition or procedure of this RFP process (including any proposed times or dates) and, where such change is made, the Treasury shall use reasonable endeavours to notify Respondents accordingly;
 - seek clarification or further information in respect of any proposal;
 - consider (or not consider), accept or reject any non-compliant proposal or not accept the lowest price proposal;
 - consider any alternative response;
 - liaise or negotiate with any Respondent or other person at any time without disclosing this to, or involving or doing the same with, any other Respondent or person, and upon any terms and conditions (whether before, during or after this RFP process);
 - provide to, or withhold from, any Respondent or other person any information in relation to any question, answer or other information arising in relation to this RFP or any subsequent process without any responsibility or liability on the part of the Treasury;
 - delete or change any requirement for any materials or services and/or create any number or types of contract in respect of the Treasury's requirements; and/or
 - deal separately with any of the divisible elements of any proposal, unless the relevant proposal specifically states that those elements must be taken collectively.

2. **Errors and omissions:** The Treasury is under no obligation to check any proposal for errors. Acceptance of a proposal that contains errors will not invalidate any agreement formed based on that proposal.

If The Treasury discovers errors and/or omissions in the pricing submitted in the Respondent's proposal prior to entering an agreement, The Treasury may notify the Respondent as soon as practicable and may require the Respondent to either confirm or withdraw its proposal. Unless the Respondent confirms its proposal within one working day of having received notice, the proposal will be treated as if it had been withdrawn.

3. **Respondents to Inform Themselves:** Respondents will be considered to have:
- Examined the RFP and any documents referenced by the RFP and any other information made available by the Treasury;
 - Considered all the risks, contingencies, the costs of preparation of their proposal including obtaining advice in relation to the Joint Lead Manager Engagement Agreement, and other circumstances having an effect on their decision to submit a proposal in response to the RFP and on the terms of their proposal; and
 - Satisfied themselves as to the correctness and sufficiency of their proposal including proposed prices offered and the sustainability of their pricing.

The Treasury does not warrant or guarantee the accuracy of any of the information contained in this RFP and under no circumstances shall the Treasury be liable to the Respondent, whether in contract, tort or otherwise in respect of any direct or indirect or consequential losses arising out of the information contained in this RFP and the RFP process itself.

4. **Confidentiality:** All parties shall keep confidential the terms of this proposal and any information obtained in connection with this proposal. No information shall be divulged to a

third party without prior written consent of the other party. The Respondent acknowledges that the Treasury's obligations under this clause are subject to the requirements imposed on the Treasury by the Official Information Act and/or the Privacy Act.

The Treasury may, if it considers it appropriate to do so, require the Respondent to sign a confidentiality deed, before releasing any confidential or commercially sensitive information to the Respondent. The Respondent agrees to sign a confidentiality deed.

5. **Privacy:** Each Respondent authorises The Treasury to collect any information from the Respondent and relevant third parties (such as referees) about individuals referenced in a Respondent's proposal and to use that personal information for the purposes of this RFP process.
6. **Ownership of RFP and Proposal Documents:** The RFP documents are the property of The Treasury and may not be copied or reproduced in any way (other than for the purposes of preparing and submitting a proposal) without the prior written approval of The Treasury. The proposals submitted to The Treasury in response to the RFP will be retained by The Treasury.
7. **No Binding Legal Relationship:** Proposals are submitted on the basis that no binding legal relations with The Treasury (the Crown) are created unless, and until, a contract between the parties is executed.
8. **Information Correct:** The Treasury may rely on any statements made or information provided by or on behalf of the Respondent in respect of this RFP. Respondents must ensure statements made and all information provided to The Treasury are complete and accurate.
9. **Payment:** Standard commercial payment practices are intended to apply: for example payment will be made by the Treasury by 20th of the month following satisfactory delivery of service. A payment schedule and associated success criteria will be negotiated with the preferred supplier.
10. **Sub-Contractors:** The Treasury would prefer to sign contracts and agreements with a single preferred Respondent or Respondents, with that preferred Respondent(s) entering into its own contractual arrangements with any sub-contractors. The Treasury expects that the successful Respondent(s) shall not, without the consent of the Treasury, assign or sub contract in whole or part any of their obligations under any agreement, once made.
11. **The Treasury Contact Person:** With regard to this RFP process, The Treasury will not be bound by any statement, written or verbal, made by any person other than The Treasury Contact Person noted within this RFP document. The Treasury Contact Person (or any other person authorised by The Treasury Contact Person) is the only person authorised to make representations or explanations to Respondents in relation to this RFP.
12. **Communication:** No communication with any of the Respondents will be entered into except in the following circumstances:
 - Respondents seeking clarification from The Treasury of this RFP document (only before the prescribed closing date);
 - Respondents submitting written (or email) questions and The Treasury responding to all questions as allowed for in paragraph 3 of Schedule 2;
 - The Treasury seeking written clarification of a Respondent's proposal.

All communications in relation to this proposal are to be in writing or by email through Adam.Wood@treasury.govt.nz (except that the proposal itself must be sent by post). Respondents should not contact any other employee of the Treasury. Failure to adhere to these conditions may result in your proposal document not being accepted.

13. **Proposal Validity Period:** Every proposal will be a continuing offer and irrevocable until the expiry of six (6) months from the RFP close date, or until such later date as may be agreed.
14. **Language and Price:** Proposals must be in English and prices are to be quoted in New Zealand dollars inclusive of goods and services tax (GST) and all other taxes and duties.
15. **Proposal Clarification:** The Respondent may be asked to clarify its proposal or provide additional information during the proposal evaluation process. These requests will require prompt action and must be responded to in writing within two working days or the time specified in the request. Otherwise, The Treasury reserves the right not to consider the proposal.
16. **Late Proposals:** In general, The Treasury's policy is not to evaluate late proposals. However, The Treasury does retain the right to accept and evaluate late proposals at its sole discretion.
17. **No Canvassing:** If the Respondent directly or indirectly canvasses any officer, employee or advisor of The Treasury other than the Treasury Contact Person, concerning any aspect of this RFP process, the Respondent's proposal may at The Treasury's discretion be disqualified.
18. **Respondent Meets Proposal Costs:** The Respondent must meet any costs incurred associated with the preparation of its response to this proposal and any presentation.
19. **Advertising:** No advertisement relating to the acceptance of any proposal shall be published in any newspaper, magazine, journal or other advertising medium without prior consent of The Treasury.
20. **Liability Limitation:** The Treasury does not warrant or guarantee the accuracy of any of the information contained in this RFP and under no circumstances shall The Treasury be liable to the Respondent, whether in contract, tort or otherwise in respect of any direct or indirect or consequential loss arising out of the information contained in this RFP and the RFP process itself.
21. **Due Diligence:** The Treasury is authorised to conduct and undertake the necessary steps to assess the proposal, the accuracy of information provided, the functionality of the product proposed and the Respondent's financial stability, operational capability and technical capability by making inquiries or investigations of any organisation or person The Treasury reasonably considers appropriate or desirable, but is under no obligation to do so. Each party will be responsible for its own costs incurred during such inquiries or investigations.
22. **Acceptance:** The Treasury is not bound to accept the lowest priced proposal and will be awarding the contract to its best advantage.
The Treasury may, at its discretion, accept non-conforming or alternative proposals.
No proposal is to be considered accepted until the relevant prospective Respondent and The Treasury enter into formal contracts and agreements in writing governing the supply of the relevant products and/or services.
23. **Interpretation:** If the Respondent is in any doubt as to the meaning of any portion of the RFP, it must set out in its response the interpretation used by it when submitting the response to this RFP, or seek an interpretation beforehand from The Treasury. Any assumption made in the preparation of a proposal or in the provision of any additional information to The Treasury must be documented.
24. **New Zealand Law:** The laws of New Zealand shall govern the RFP and this RFP process and each Respondent agrees to submit to the non-exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning this RFP or the RFP process.

25. **Acceptance of Terms and Conditions:** Respondents are required to indicate that they have read and accepted the stated RFP Terms and Conditions (i.e. 1 to 24 above) in the following statement:

We at [Respondent name] have read and accept the terms and conditions as set out in the Request for Proposal: **Extension of Mixed Ownership Model: Joint Lead Managers Panel and First Transaction.**

Schedule 1: Treasury's Requirements

PART A: BACKGROUND

The Treasury is the Government's lead advisor on economic and financial policy, with an overall vision of helping the Government achieve higher living standards for New Zealanders.

On 26 January 2011, the Prime Minister announced that the Government is considering areas where it can prioritise and reallocate its capital to reduce the rate of debt accumulation. The greatest scope to change the mix of assets lies with the Government's portfolio of commercial assets, and in particular by extending the "mixed ownership model" under which Air New Zealand currently operates. The Ministers of Finance and State Owned Enterprises wrote to the Secretary of the Treasury on 27 January 2011 requesting advice on the merits and viability of:

- extending the mixed ownership model to Genesis Power Limited, Meridian Energy Limited, Mighty River Power Limited and Solid Energy New Zealand Limited with the Crown retaining a majority stake in these companies; and
- reducing the Crown's shareholding in Air New Zealand Limited, again while maintaining a majority stake.

This advice has now been provided and the Government has agreed to extend the mixed ownership model to Genesis Power Limited, Meridian Energy Limited, Mighty River Power Limited, and Solid Energy New Zealand Limited, and to further reduce the Crown's shareholding in Air New Zealand Limited (together referred to as "the extension of the Mixed Ownership Model"), over a 3-5 year programme beginning in 2012. The exact timing and composition of the programme will depend on market conditions and other relevant factors.

The following ten objectives have been agreed for the programme ("the Crown Objectives") and were subsequently released to the public as part of the Budget 2011 Information Release. The objectives are:

	Category	Objective
1	Fiscal (static)	Optimise the value for the Crown and freeing up capital
2	Fiscal (dynamic)	Allow the companies to obtain growth capital without depending entirely on the government
3	Capital market development	Broaden the pool of investments available to New Zealand savers, and increase the depth of New Zealand capital markets
4	New Zealand participation	Place New Zealand investors at the front of the queue and achieve widespread and substantial New Zealand share ownership
5	Commercial disciplines	Ensure these large and important companies reap the benefits of sharper commercial disciplines, more transparency, and greater external oversight to allow them to make the strongest possible contribution to New Zealand's economic growth
6	Majority Crown ownership	Ensure the government has a controlling stake
7	Good investment opportunities	Ensure the companies involved present good opportunities for investors
8	Protect consumers	Ensure that industry specific regulations adequately protect New Zealand consumers

9	Low execution risk	Successful implementation is achieved (such as good demand for shares, and the shares perform well after listing)
10	Timing	The programme will be well advanced by 2014, to allow capital to be released over the next few years to finance other capital priorities

A Commercial Transactions Group within The Treasury has been established to provide advice to the Government on the extension of the Mixed Ownership Model and other major commercial transactions.

A probity advisor has been appointed by The Treasury to advise on, and review, the RFP process and verify that the procedures set out in the RFP are complied with and that probity principles are adhered to. Any Respondent concerned about any procedural issue has the right to contact the probity advisor and raise any concerns. The name and contact details of the probity advisor are as follows:

Peter Castle
Commercial Barrister
Level 8 Wakefield House
90 The Terrace
(PO Box 8045)
Wellington 6143
New Zealand
DDI: +64 4 914 1057
Email: p.castle@barristerscomm.com

More information on The Treasury can be found at www.treasury.govt.nz.

The Treasury is seeking to appoint a panel of firms who have the interest and capability to act as joint lead manager or lead manager ("JLM"), or broker to a secondary sell-down for one or more of the Mixed Ownership Model ("MOM") transactions ("JLM Panel").

It is intended that the JLMs for each individual MOM transaction will be appointed by The Treasury from the JLM Panel following an appointment process conducted by it in respect of the particular MOM transaction under which only the members of the JLM Panel will be asked to submit short-form proposals in response to a request from The Treasury. Those responses will be evaluated, and appointments will be made, by The Treasury based on the evaluation criteria notified to the members of the JLM Panel at the time of each such process.

However, The Treasury intends to select JLMs for the proposed first MOM transaction, being in respect of Mighty River Power Limited, under this RFP process from the Respondents appointed to the JLM Panel. Accordingly, Respondents who wish to be considered for appointment as a JLM for the proposed first MOM transaction, as well as being considered for appointment to the JLM Panel, should clearly indicate that is the case in their responses to this RFP.

The Treasury has not yet decided the number of JLMs which may be appointed to the JLM Panel. The Treasury has also not yet decided the number of JLMs or the composition of the syndicate structure for the proposed first MOM transaction being in respect of Mighty River Power Limited. It is intended that Respondents appointed to the JLM Panel would remain members of the panel for the duration of the MOM transactions. The Treasury does, however, reserve the right, at its absolute discretion, to remove members from, or, in accordance with the procurement rules applicable to government departments including The Treasury, appoint new members to, the JLM Panel at any time. The Treasury also reserves the right, at its discretion, to terminate the appointment of a JLM appointed in respect of a MOM transaction, and to appoint additional JLMs from the JLM Panel, for each MOM transaction.

The Treasury intends to appoint a broader selling syndicate for the IPOs under the MOM transactions closer to the time of each transaction. Selling syndicate members do not need to be members of the JLM Panel.

PART B: SERVICE REQUIREMENTS

1. Services

The Respondent must confirm its ability to provide the services in paragraph 1.1 below and, if it is seeking appointment as a JLM for the proposed first MOM transaction, its ability to provide the services in paragraph 1.2, together (the “Services”):

1.1 JLM Panel Member

- To act as a member of JLM Panel;
- To be available to act as a:
 - JLM or lead manager (including, in particular, that it has the experience and capability to provide the Services in paragraph 1.2 below) for one or more of the assets the subject of the MOM transactions; and/or
 - Broker or lead broker on a secondary selldown of shares in Air New Zealand Limited or in any one or more of the other companies the subject of the MOM transactions;
- To consult with the Crown on matters concerning the MOM transactions, if requested; and
- To tender for a JLM role for one or more of the assets the subject of the MOM transactions or a broker role for a secondary selldown of shares in Air New Zealand Limited or in any one or more of the other companies the subject of the MOM transactions.

1.2 JLM Appointment for First MOM transaction

1.2.1 Preparation Phase

- Participating in due diligence, including acting as a member on the Due Diligence Committee established for the transaction;
- Assist in the preparation of drafts of the Offer Documents, in conjunction with other advisers retained by the Crown and the MOM Company (it being acknowledged that the Crown and the MOM Company have ultimate responsibility for the preparation of the Offer Documents);
- Review information and participate in discussions on the marketing of the Offer generally;
- Provide advice to the Crown in relation to potential offer structures (it being acknowledged that the Crown will determine the final offer structure for the MOM transaction in its sole discretion), including:
 - Target markets, including identification of likely domestic and international investors to be targeted;
 - Offer structures to maximise participation from New Zealand investors;
 - Methods of distribution and marketing themes;
 - Pricing method, structure, range and final price level;
 - Syndication arrangements and rules;
 - Settlement procedures; and
 - Market stabilisation and aftermarket support.

- Provide advice to the Crown if requested in relation to the positioning of the MOM Company, including strategic positioning, capital and debt structure, and dividend policy;
- Participate with The Treasury in reviews of its performance, and the management of the process, during the Preparation Phase;
- Execution Phase
 - Manage the logistics of marketing the Offer, including:
 - Preparation of marketing documents, including target lists of potential investors, domestic and international roadshow plans, marketing plans for institutional and retail investors;
 - Organisation of presentations and meetings;
 - Preparation of appropriate pathfinder research in compliance with research guidelines for the IPO;
 - Market the offer to institutional and retail investors;
 - Use best endeavours to solicit institutional and retail subscriptions;
 - Arrange and lead manage the Offer;
 - including, if required by The Treasury, act as bookrunner (The Treasury reserves the right to act as bookrunner for the first, or any subsequent, MOM transaction);
 - Provide advice to the Crown on the appropriate allocation policy and pricing (it being acknowledged that the Crown will determine the appropriate allocation policy and pricing in its sole discretion); and
 - Provide settlement support for the institutional offer and, if required, underwrite settlement under that offer.
 - Assist as required with the project management of the Offer, including:
 - preparing a detailed project plan and key project milestones for the Offer;
 - assisting the Crown with project management and procurement of advisers/suppliers;
 - assisting in coordinating discussions with regulators in relation to the Offer;
 - coordinating and managing the activities of the selling syndicate; and
 - other project management services;
 - Participate with The Treasury in reviews of its performance, and the management of the Offer process, throughout the Execution Phase and in a post-completion review.

The Crown Advisor, Deutsche Bank, will also provide advice to the Crown on the implementation of the extension of the Mixed Ownership Model, including (potentially) on the above matters for each MOM transaction. The Crown's independent financial advisor, Lazards Pty Limited, will provide independent advice to the Crown for each MOM transaction (including advice in relation to valuation, allocation policy and pricing).

2. Capability

- 2.1. For the services in paragraph 1.1, the Respondent must demonstrate that it has the requisite experience and capability to act as a JLM for one or more of the assets the subject of the Mixed Ownership Model and as broker or lead broker on a secondary sell-down of

Air New Zealand Limited shares or of shares in any one or more of the other companies the subject of the MOM transactions having regard to its:

- Ability to assist the Crown to meet the Crown Objectives for the MOM transactions;
- Understanding of relevant markets, including New Zealand's energy markets and the global airline industry;
- Understanding and experience in New Zealand, Australian and international capital markets;
- Track record and experience as a JLM on previous IPOs and as broker or lead broker on secondary share sales in New Zealand and Australia of a similar size and/or nature (including the extent to which those IPOs met the pricing, and any ownership, objectives of the relevant issuer or offeror);
- Experience in working on government divestments, including an understanding of government processes;
- Market position and market share in relevant equity markets where an MOM Company may be listed;
- Strength of distribution across retail and institutions, both in New Zealand, Australia and in other international markets;
- Depth of experience in after-market trading; and
- Research coverage and ratings in New Zealand and Australia;

The Respondent should note that it will not be disadvantaged in the evaluation of its proposal if it is not the Crown Adviser, or was not a scoping study adviser, in respect of the MOM transactions. Similarly, the Respondent will not be disadvantaged in the evaluation of its proposal if it is the Crown Advisor, or was a scoping study adviser.

- 2.2. For the services in paragraph 1.2, the Respondent must have a demonstrated ability to understand the role and the specific issues for Mighty River Power Limited in the context of the proposed IPO transaction (as well as having the requisite experience and capability required in paragraph 2.1), including but not limited to:

- Meeting the Crown Objectives for the MOM transactions;
- Likely investor perception of Mighty River Power Limited, including investment highlights and key risks (as determined on the basis of publicly available information);
- Likely sources and quantum of investor demand for Mighty River Power Limited, including specifically the likely level of New Zealand retail demand;
- Identification of likely domestic and international institutional and retail investors to be targeted and the Respondent's access to these investors;
- The approach to positioning the equity investment story and valuation so that the Offer is priced at a level which meets the Government's fiscal objectives;
- Preferred offer structure, including retail incentives, tranche sizes and allocations; and
- An ability to work with other appointed JLMs and other external advisors of the Crown.

The Respondent should note that while the evaluation criteria include issues that may require some knowledge of Mighty River Power Limited, it will not be disadvantaged in the evaluation if it is not the Crown Adviser or was not the scoping study adviser in respect of Mighty River Power Limited. Similarly, the Respondent will not be disadvantaged in the evaluation if it is the Crown Advisor, or was a scoping advisor for a competing MOM company. The Treasury will evaluate responses on the basis that Respondents only had access to publicly available information in respect of Mighty River Power Limited.

- 2.3. Respondents should note that it is unlikely that they will be appointed to the JLM Panel unless they have, or have access to, a substantial distribution network across retail and institutions, both in New Zealand, Australia and in other international markets or have acted as a lead manager or joint lead manager of a capital raising of at least NZ\$200 million in value.

3. Personnel

- 3.1. The Respondent must identify the key personnel that will provide the Services, including their relevant experience, and what their role in the provision of the Services will be. The Respondent must also be able to provide a commitment:
- that sufficient personnel will be made available to ensure delivery of the Services, advice and documentation within agreed timeframes;
 - that key personnel will only be changed with the prior consent of the Treasury; and
 - to provide work in progress reporting as required by the Treasury.

4. Conflict of Interest

- 4.1. The Respondent must provide details of any work it is currently undertaking, and has undertaken in the past 2 years, for any of the companies that are the subject of the proposed extension of the Mixed Ownership Model.
- 4.2. The Respondent must undertake that if it is appointed to the JLM Panel, it will, for so long as it remains a member of the panel, provide details of any work it proposes to undertake for any of the companies that are the subject of the proposed extension of the Mixed Ownership Model.

Each Respondent must also:

- 4.3. confirm it would have no conflict of interest or potential conflict of interest if it was to perform the Services set out in this RFP; or
- 4.4. if it would have a conflict of interest or potential conflict of interest if it was to perform the Services set out in this RFP, indicate the nature of that conflict, whether that conflict is manageable and if so, how it might be managed.

5. Term

The Respondent must:

- 5.1. agree to provide the Services in paragraph 1.1 through to 30 November 2014 or the earlier completion of the MOM transactions provided that the term for the provision of those Services may be extended by The Treasury, at its discretion, until the completion of the MOM transactions if they have not been completed by 30 November 2014;
- 5.2. where the Respondent is tendering for the Services in paragraph 1.2, agree to provide the Services in paragraph 1.2 until completion of the first MOM transaction; and
- 5.3. acknowledge that the Treasury may terminate the appointment of the Respondent to the JLM Panel, or (if applicable) as a JLM in respect of the proposed first MOM transaction, at any time and for any reason by giving 10 working days prior written notice.

6. Fees and Pricing

- 6.1. No fee proposal is required for the Services in paragraph 1.1.

- 6.2. Where the respondent is tendering for the Services in paragraph 1.2, a fee proposal to act as one of a number of JLMs, stating clearly why it represents value for money for the Crown, including any savings or discounts offered and comparisons with precedent transactions. Any fee proposal should include:
 - 6.2.1. Total fees potentially payable to the Respondent for all services to be provided under the JLM Engagement Agreement (which fees must also include fees for the services to be provided under the Offer Management Agreement to be entered into in respect of the first MOM transaction);
 - 6.2.2. Separate institutional selling commissions and retail selling commissions;
 - 6.2.3. Whether the fee for acting as a JLM for the first MOM transaction is inclusive of fees payable to Co-lead Managers, and if not the fees payable to any Co-lead Managers;
 - 6.2.4. Whether the Respondent is proposing a fee cap or a discretionary fee component;
 - 6.2.5. Whether an additional fee would be payable if the Respondent is the bookrunner for the Offer and, if so, the amount of that fee;
 - 6.2.6. The fee for underwriting settlement of the institutional offer under the first MOM transaction should The Treasury require such an underwrite; and
 - 6.2.7. Any disbursements for which the Respondent expects the Crown to reimburse it (including any marketing and roadshow expenses, book-build expenses (if it is the bookrunner) and legal expenses), the expected amount of these expenses and the Respondent's proposals for minimising the amount of such expenses.
- 6.3. The Treasury expects that all disbursements incurred by the JLMs in providing the Services in New Zealand (including, for the avoidance of doubt, New Zealand roadshow and travel expenses) will be met by the JLMs from the fees payable to them under the JLM Engagement Agreement and the Offer Management Agreement except to the extent agreed otherwise. Respondents should, therefore, prepare fee proposals on that basis and clearly identify any expenses which they would expect the Crown to meet.
- 6.4. All fees and costs described in the proposal shall remain firm for six (6) months from the closing date of this RFP.
- 6.5. All fees should be inclusive of GST and all other taxes and duties and be quoted in New Zealand dollars.

7. Contractual Documents

The Treasury has prepared a draft JLM Engagement Agreement for the first MOM Transaction. Respondents who are member firms of the ASX or NZX-accredited Market Participants are able to obtain a copy of the draft JLM Engagement Agreement from The Treasury by contacting Adam.Wood@treasury.govt.nz and submitting the signed Confidentiality Undertaking attached as Schedule 4 by **noon 20 December 2011**. Submission of the Confidentiality Undertaking must be made either by pdf email to Adam.Wood@treasury.govt.nz or hard copy delivered to The Treasury at the address on page 1 of this RFP. Other Respondents will be granted access to the draft JLM Engagement Agreement at The Treasury's discretion provided they also submit the signed Confidentiality Undertaking to The Treasury in the manner described above. Respondents who are seeking appointment as a JLM for the first MOM transaction are required to respond to the draft JLM Engagement Agreement as specified below.

- 7.1. Respondents must undertake to execute the draft JLM Engagement Agreement without material amendment;

- 7.2. If the Respondent thinks it will be unable to accept any of the terms and conditions of the draft JLM Engagement Agreement, it must state the reasons it is unable to do so and provide alternative wording, by way of marked up changes. General objections, statements of position or attempts to defer a response (such as “This will need further discussion”) are not acceptable;
- 7.3. The extent of any changes and/or non-acceptance of terms and conditions in the draft JLM Engagement Agreement by a Respondent will be a factor taken into account when evaluating proposals.

PART C: EVALUATION CRITERIA & CONTRACT NEGOTIATION

1. Evaluation Criteria

1.1. JLM Panel

In evaluating proposals for JLM Panel Members, The Treasury will consider and evaluate to its satisfaction the following criteria:

Criteria	Description
Quality of Response	An assessment of the completeness, quality and robustness of the response provided by the Respondent and the response to any subsequent requests by The Treasury for additional information.
Services	Without restricting any other criteria set out in this table, an assessment of the Respondent's capability to meet the requirements set out in paragraph 1.1 of Part B of this Schedule 1.
Capability	The extent to which The Treasury is satisfied that the Respondent has the capability and resources to provide the Services.
Conflict of Interest	The nature and extent of any conflicts of interest, and how these might be managed.

1.2. JLM Appointment for first MOM Transaction

Proposals for appointment of JLMs for the first MOM Transaction will only be evaluated from Respondents who are successfully appointed to the JLM Panel.

Whilst price is one consideration, other criteria will also influence The Treasury's decisions in evaluating the proposals. In evaluating proposals, The Treasury will consider and evaluate to its satisfaction the following criteria:

Criteria	Description
Quality of Response	An assessment of the completeness, quality and robustness of the response provided by the Respondent and the response to any subsequent requests by The Treasury for additional information.
Services	Without restricting any other criteria set out in this table, an assessment of the Respondent's capability to meet the requirements set out in paragraph 1.2 of Part B of this Schedule 1.
Capability	The extent to which The Treasury is satisfied that the Respondent has the capability and available resources to provide the Services.
Conflict of Interest	The nature and extent of any conflicts of interest, and how these might be managed.
Fees and Pricing	An assessment of the Respondent's pricing and the extent to which The Treasury is satisfied with this.
Contractual Documents	The extent to which the Respondent is willing to accept the draft JLM Engagement Agreement.

1.3. Approach to Evaluation

The above criteria are not in any particular order, are not exhaustive and will not necessarily be accorded equal weight.

The Treasury is not obliged to inform Respondents of progress during the proposed evaluation process.

Respondents who have been short-listed as preferred JLMs for the proposed first MOM transaction may be required to make a presentation to The Treasury as part of the evaluation process.

2. Notification

The successful Respondents will be notified in writing that they have been accepted as members of the JLM Panel and, where applicable, whether they have been short-listed as preferred JLMs for the proposed first MOM transaction. Respondents who have not been short-listed as preferred JLMs for the proposed first MOM transaction (and therefore not invited to make a presentation/demonstration, if required) will be notified, expected to be on or around **10 January 2012**. The Treasury reserves the right to short-list one, more than one, or no Respondents.

Unsuccessful Respondents for a role as a member of the JLM Panel and/or for appointment as a JLM for the first MOM transaction will be notified in writing as soon as practicable after they have been excluded from consideration.

Once the RFP process is complete, unsuccessful respondents will be entitled to request information on:

- the relative advantages of the proposal that was accepted; and
- why their proposal was rejected.

Once the RFP process is complete and contracts have been entered into with any Respondent(s), The Treasury will publish on GETS a notice containing the following information:

- the name and address of the successful Respondent(s);
- a description of the services to be supplied;
- the term of the contract; and
- the value of the contract award.

3. Proposal Negotiations

The Treasury reserves the right to negotiate without restriction after the close of proposals on any matter contained in a Respondent's proposal.

In the event that, in the opinion of The Treasury and at The Treasury's sole discretion, none of the proposals submitted are acceptable, The Treasury reserves the right to enter into further negotiations with one or more of the Respondents or any other party. The Treasury will exercise this right only after notification that Respondents' proposals have been unsuccessful.

The proposal may be re-negotiated with selected Respondents without the need to:

- re-tender; or
- submit an altered RFP to all responders.

4. Contract Negotiations for appointment as a JLM for the First MOM Transaction

When all the proposals have been evaluated (re-negotiations of tenders notwithstanding) and preferred JLMs for the first MOM transaction have been short-listed, the Crown will negotiate in good faith with the Respondents selected to act as JLMs for the first MOM transaction with a view to entering into the JLM Engagement Agreement based on this RFP and the responses of the short-listed Respondents.

Schedule 2: Proposal Requirements

1. **Format of Response**

Proposals must be delivered in hard copy form in the manner and by the time indicated on page 2 of this RFP. The Treasury may (but is not obliged to):

- decline to consider a proposal that does not follow the format prescribed or does not contain the information required;
- require any proposal to be modified so as to follow the prescribed form and contain the information required.

Respondents are to submit one signed original plus four complete hard copies and 1 CD rom electronic copy of their proposal in a sealed package.

Proposals should be presented in no less than 10 point font and be no more than 50 single sided pages. This excludes other supporting information which can be included as attachments, but which may not be evaluated at the sole discretion of the Treasury.

Proposals are to be sequentially page numbered. All sections and subsections should be numbered.

Proposals should be double sided.

Supporting material (e.g. brochures, etc) is not required unless material to the response.

All Respondents must acknowledge in their proposal that they agree to the terms and conditions set out in this RFP in the manner indicated in those terms and conditions. The Treasury reserves the right to reject proposals that fail to give such an acknowledgement.

2. **Response Documents**

Please ensure that your response includes:

- a signed cover letter which includes:
 - a statement that the Respondent has read the stated terms and conditions in the RFP in accordance with term 25 in those terms and conditions; and
 - contact information of the person in your company who has the authority to represent your company in ongoing discussions and any resulting agreements.
 - contact information of two references for whom you have provided similar services to.
 - the following statement as required by clause 25 of the Terms and Conditions of this RFP:

“We at [Respondent name] have read and accept the terms and conditions as set out in the Request for Proposal: Extension of Mixed Ownership Model - Joint Lead Managers”.
- the response templates set out in Schedule 3 to this RFP; and
- company profile information, including expertise and relevant personnel.

3. Questions about the RFP

Respondents may email written questions about this RFP to: Adam.Wood@treasury.govt.nz. The final deadline for questions is **noon 20 December 2011**. The Treasury will use reasonable endeavours to answer all questions and post such answers on GETS by **22 December 2012**. The Treasury reserves the right to not answer any question.

4. Proposal Contents

The Respondent must ensure that all information submitted as part of the proposal is of sufficient detail to substantiate its ability to meet or exceed the requirements of this RFP.

5. Withdrawal

If, after sending in the proposal, a Respondent decides to withdraw from the selection process, an authorised person from your company should notify Adam.Wood@treasury.govt.nz.

6. Delivery of Proposals

All proposals must be received in the prescribed manner by **noon 4 January 2012**.

7. Respondent presentations

The Treasury may, if it considers it to be necessary, request that short-listed Respondents for the proposed first MOM transaction make a presentation to The Treasury on their proposal. During the course of the RFP process, The Treasury will advise the Respondent if a presentation will be required.

Schedule 3: Proposal Form

GUIDE TO CONTENT OF PROPOSAL SUBMISSIONS

Responses to requirements

Respondents must:

- Complete the Respondent Details substantially in the form as set out in Section A;
- Complete the Proposal Response Template substantially in the form as set out Section B and where applicable replicating the numbering used to identify each requirement;
- Address each requirement stated in Section B of the RFP, including all subcomponents of each requirement. Provide a response in the 'Detailed Response' column, to every item,;
- Explicitly identify any respect in which implementing the Respondent's proposal would result in less than full compliance with a requirement or sub-component thereof;
- Provide evidence that the Respondent would be able to deliver the particular services set out in this RFP and that these will be effective in meeting the requirements; and
- If seeking appointment as a JLM for the first MOM transaction, respond to draft JLM Engagement Agreement in the manner stipulated in paragraph 7 of Part B of Schedule 1 to the RFP.

Proposals must be based precisely on the requirements stated in this RFP.

The Treasury reserves the right to reject any proposal that does not, in its opinion, comply with these requirements.

SECTION A: RESPONDENT DETAILS	
1. RESPONDENT'S FULL LEGAL NAME	
2. RESPONDENT'S TRADING NAME (if any)	
3. RESPONDENT'S CONTACT PERSON	<div> <div>Name:</div> <div>Position:</div> <div>Address:</div> </div> <div> <div>Phone:</div> <div>Fax:</div> <div>Email:</div> <div>Mobile:</div> </div>
4. RESPONDENT'S GST REGISTRATION NO.	
5. PROFILE OF RESPONDENT (attach information if not enough room)	
(a) Details of owners/ controllers	Names: Country of residence: Outline a brief history of the Respondent's current company structure, relevant historic information and overall goals and aspirations of the company moving forward. (Informational)
(b) Legal status	Limited liability company YES/NO Other? (specify)
(c) Legal actions	Provide details of any potential or pending legal actions against the Respondent for any reason. (Informational)
(d) Management systems	Provide details of any independently certified quality management systems in place, including the date of the last independent audit. (Informational)
(e) Experience in area	Major customers and referees: (Treasury may contact these people) Provide information on work that has been undertaken for similar services. At least two referees are required. You must provide the following information Name, business and location of the organisation Name and contact phone number of a referee at the organisation The period of time the work was undertaken Key factors in selecting this referee for this RFP
(f) Financial/legal information The Respondent will arrange for and grant to the Treasury permission to contact each person listed to the right for the purposes of conducting due diligence.	<div> <div>1. Bank:</div> <div>2. Accountants:</div> <div>3. Legal Advisers:</div> </div> <div> <div>Contact person:</div> <div>Phone:</div> <div>Contact person:</div> <div>Phone:</div> <div>Contact person:</div> <div>Phone:</div> </div>
(g) Insurance	Types of cover held and \$ cover: Insurers name(s): Expiry date(s) of cover: Premiums paid to: (Insert date)

6. WILL ANY SUBCONTRACTORS BE INVOLVED?	
YES/NO If yes, specify for each subcontractor: Who?: Value involved?: Extent of tasks involved?: (Attach information if not enough room here)	
7. WHAT DOES YOUR PROPOSAL COVER?	Treasury's entire requirement? YES/NO If no, specify
8. PRICE QUOTED TO SUPPLY DELIVERABLES TO SATISFY TREASURY REQUIREMENTS	
Price is "GST inclusive"?: YES/NO Price is fixed and firm until: (Date)	
9. JLM Engagement Agreement	
Following Treasury evaluation, discussions may be conducted to verify the short-listed Respondents' proposals, and their capability to provide the services. Subject to these discussions, the draft JLM Engagement Agreement will be negotiated with the Respondents short-listed to act as JLMs on the first MOM transaction. The draft JLM Engagement Agreement is attached and changes (if any) are marked up in accordance with the requirements of this RFP. Should a satisfactory final agreement be unable to be reached, The Treasury reserves the right, at its sole discretion, to progressively enter such discussions and negotiations with the next ranked Respondent(s) until achievement of an acceptable contract. Noted and accepted YES/NO	
Would the Respondent require consideration of any special contractual provisions? YES/NO If yes, specify below or attach	
Other than as provided above, the Respondent confirms (if it is seeking appointment as a JLM for the first MOM transaction) that it accepts the terms and conditions of the draft JLM Engagement Agreement. Confirmed: YES/NO	
The Respondent TENDERS AND OFFERS to Her Majesty the Queen in right of New Zealand, acting by and through the Secretary of the Treasury (" Crown ") to supply the deliverables on the basis of this Proposal which, if accepted in writing by Treasury, will form part of the contract between the Respondent (as the "Contractor") and Treasury.	

The information provided in this proposal, including Section B is true and accurate at the time of submission of this proposal and will remain valid for at least six months from submission of this Proposal.	SIGNED FOR THE RESPONDENT	
	_____ (Signature)	
	Full name: Title: Location:	
	DATED	

SECTION B: PROPOSAL RESPONSE TEMPLATE:

RESPONDENT NAME:

REQUIREMENT NO.	SERVICE REQUIREMENTS (AS SET OUT IN PART B OF SCHEDULE 1)	DETAILED RESPONSE
1.	Services	
1.1	JLM Panel Membership Confirm your ability to provide, as a member of the JLM Panel, each of the services specified in paragraph 1.1 of Part B of Schedule 1.	
1.2	JLM Appointment for the first MOM Transaction If seeking appointment as a JLM for the first MOM transaction, confirm your ability to provide each of the services specified in paragraph 1.2 of Part B of Schedule 1 during the Preparation and Execution Phase.	
2.	Capability	
2.1	Demonstrate that you have the requisite experience and capability to act as a JLM, or broker or lead manager, for one or more of the MOM transactions having regard to each of the factors specified in paragraph 2.1 of Part B of Schedule 1.	
2.2	If you are seeking appointment as a JLM for the first MOM transaction, you must demonstrate your understanding of the role as a JLM for the offer of shares in, and the specific issues for, Mighty River Power Limited in the context of the proposed IPO (including, but not limited to, the matters specified in paragraph 2.2 of Part B of Schedule 1).	

REQUIREMENT NO.	SERVICE REQUIREMENTS (AS SET OUT IN PART B OF SCHEDULE 1)	DETAILED RESPONSE
3.	Personnel	
	Identify the key personnel who will provide the services specified in paragraph 1.1 and (if applicable) paragraph 1.2 of Part B of Schedule 1 (together with the experience and the role they will undertake) and demonstrate your commitment to the matters specified in paragraph 3.1 of Part B of Schedule 1.	
4.	Conflict of Interest	
4.1	Provide details of any work currently being undertaken, or that has been undertaken in the past two years, by you for any of the companies that are subject of the MOM transactions.	
4.2	Provide an undertaking that, if appointed to the JLM Panel you will, for so long as you are a panel member, provide details of any work you propose to undertake for any of the companies that are the subject of the MOM transactions.	
4.3	Confirm that you would not have a conflict of interest or potential conflict of interest if you were to perform the Services set out in paragraph 1.1 and (if applicable) paragraph 1.2 of Part B of Schedule 1.	
4.4	If you would have a conflict of interest or potential conflict of interest, you must disclose full details of any such conflict or potential conflict and how it is to be managed by you.	
5.	Term	
5.1	You must agree to provide the Services specified in paragraph 1.1 of Part B of Schedule 1 for the term specified in paragraph 5.1 of that Schedule.	
5.2	If you are seeking appointment as a JLM for the first MOM transaction, you must agree to provide the Services specified in paragraph 1.2 of Part B of Schedule 1 until completion of that transaction.	

REQUIREMENT NO.	SERVICE REQUIREMENTS (AS SET OUT IN PART B OF SCHEDULE 1)	DETAILED RESPONSE
5.3	You must acknowledge that The Treasury may terminate your appointment to the JLM Panel or, if applicable, as a JLM in respect of the proposed first MOM transaction, at any time and for any reason by giving 10 working days prior written notice.	
6.	Fees and Pricing	
6.1	No fee proposal is required for the Services in paragraph 1.1 of Part B of the Schedule.	
6.2	<p>If you are seeking appointment as a JLM for the first MOM transaction, you must provide a fee proposal for acting as one of a number of JLMs, stating clearly why your proposal represents value for money for the Crown, including any savings or discounts offered and comparisons with precedent transactions. The fee proposal should include:</p> <p>6.2.1 Total fees potentially payable to you for all services to be provided under the JLM Engagement Agreement (which fees must include all fees for the services to be provided under the Offer Management Agreement to be entered into for the first MOM transaction);</p> <p>6.2.2 Separate institutional selling commissions and retail selling commissions;</p> <p>6.2.3 Whether the fee for acting as a JLM for the first MOM transaction is inclusive of fees payable to Co-lead Managers and, if not, the fees payable to any Co-lead Managers;</p> <p>6.2.4 Whether you are proposing a fee cap or a discretionary fee component;</p> <p>6.2.5 Whether an additional fee would be payable if you are the</p>	

REQUIREMENT NO.	SERVICE REQUIREMENTS (AS SET OUT IN PART B OF SCHEDULE 1)	DETAILED RESPONSE
	<p>bookrunner for the first MOM transaction and, if so, the amount of that fee;</p> <p>6.2.6 The fee for underwriting settlement of the institutional offer under the first Mom transaction should The Treasury require such an underwrite; and</p> <p>6.2.7 Any disbursements for which you expect reimbursement from the Crown (including any marketing and roadshow expenses, book-build expenses (if you are the bookrunner) and legal expenses), the expected amount of these expenses and your proposals for minimising the amount of the same.</p>	
6.3	The Treasury expects that all disbursements incurred by the JLMs in providing in New Zealand the Services described in paragraph 1.2 of Part B of Schedule 1 (including, for the avoidance of doubt, New Zealand roadshow and travel expenses) will be met by the JLMs from the fees payable to them under the JLM Engagement Agreement and the Offer Management Agreement except to the extent agreed otherwise. Respondents should, therefore, prepare fee proposals on that basis and clearly identify any expenses which they would expect the Crown to meet.	
6.4	All fees should be inclusive of GST and all other taxes and duties, and be quoted in New Zealand dollars.	
7.	Contractual Documents (if seeking appointment as a JLM for the first MOM transaction)	
7.1	You must undertake to execute the draft JLM Engagement Agreement without material amendment.	
7.2	You must confirm whether you accept the terms and conditions of	

REQUIREMENT NO.	SERVICE REQUIREMENTS (AS SET OUT IN PART B OF SCHEDULE 1)	DETAILED RESPONSE
	the draft JLM Engagement Agreement.	
7.3	If you think you will be unable to accept any of the terms and conditions of the draft JLM Engagement Agreement, you must state the reasons you are unable to do so and provide alternative wording, by way of marked up changes. General objections, statements of position or attempts to defer a response (such as "This will need further discussion") are not acceptable. (Respondents should note that the extent of any changes and/or non-acceptance of terms and conditions in the draft JLM Engagement Agreement by them will be a factor taken into account when evaluating proposals.)	

Schedule 4: Confidentiality Undertaking

To: The Treasury
Level 5
1 The Terrace
Wellington

[Name of the Respondent]:

- (a) acknowledges that the draft JLM Engagement Agreement (the **Draft Agreement**) for the proposed offer of shares in Mighty River Power Limited will be provided to it solely for the purposes of enabling it to consider, prepare and submit a response to the Request For Proposal released on GETS on 15 December 2011 (the **RFP**) and is not to be used by it for any other purpose; and
- (b) undertakes that it will:
 - (i) receive and keep the Draft Agreement and its provisions strictly confidential, and will not disclose the Draft Agreement or its provisions to any person nor copy or reproduce the Draft Agreement other than, and then only, to the extent necessary to enable it to consider, prepare and submit its response to the RFP; and
 - (ii) immediately return the Draft Agreement and all copies of the same to The Treasury if requested to do so in writing by The Treasury.

Signed by [Name of the Respondent] by:

Authorised Signatory