



REQUEST FOR TENDERS

Young Emerging Arts Practitioners Research Project

**TENDERS MUST BE DELIVERED BY
CLOSING TIME AND DATE:**

5 pm Monday 15 March 2010

This document is available until the closing date.

Further information regarding this Request for Tender may be obtained from:

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Disclaimer

Although certain and relevant information is contained in this Request for Tender (RFT), Tenderers must make their own independent assessment and investigations in respect of the subject matter contained herein. Neither Creative New Zealand (CNZ) nor any of their members, employees, consultants, agents:

- makes any representations or warranties as to the accuracy, reliability or completeness of the information; nor
- has any liability under the law, or otherwise, arising from the information, the Request for Tender and selection process, or any associated activity or activities.

PART 1: PROJECT OVERVIEW AND BACKGROUND INFORMATION

1. Overview

- 1.1 Creative New Zealand (CNZ) is established under the Arts Council of New Zealand Toi Aotearoa Act 1994. Its funding comes from the Government through Vote Arts, Culture and Heritage and the New Zealand Lottery Grants Board. Creative New Zealand's purpose is: *to encourage, promote and support the arts in New Zealand for the benefit of all New Zealanders.*
- 1.2 CNZ wishes to undertake an external research project into the current practice and development needs of **young emerging arts practitioners** (including demographics, training, practice, environmental influences, skills, audiences, support, opportunities for - and barriers to - development).
- 1.3 The aim of this research project is to strengthen the evidence base that informs CNZ's funding decisions and policies, particularly those relating to young emerging arts practitioners.
- 1.4 This research project will provide quantitative and qualitative information to contribute to the development of a Young People and the Arts policy/strategy. The Young People and the Arts policy/strategy is expected to cover arts development and arts participation of young people including
 - young emerging artists
 - young people participating in the arts
 - young audiences (including arts education)
 - arts in education
- 1.5 This research focuses specifically on Young Emerging Arts Practitioners
- 1.6 For the purposes of this project, **young emerging arts practitioners** are defined as young people from 18-25 who have made a commitment to, and are actively involved in the arts as demonstrated by a track record of practice or by undertaking arts specific training.
- 1.7 **Arts practitioners** are defined as including artists, writers and practitioners and all forms of arts practices currently recognised through CNZ funding bodies such as

heritage based Māori, Pacific and Western arts, as well as contemporary forms of arts practice such as dance, music, theatre, fine or visual arts, the craft and object arts and literature.

- 1.8 The term **practitioner(s)** also includes people involved in organising an arts project (those doing the practice) and may include producers, managers, technicians, publishers, curators, agents, dealers and community arts organisers. Practitioners are people who may not necessarily classify themselves as artists, but who may be necessary to creating, presenting and/or distributing an artwork. The term is inclusive of individuals, groups, communities and organisations.
- 1.9 CNZ acknowledges that an understanding of young people and the arts is priority policy area for 2010-2013 (draft *Strategic Plan 2010-2013* available on request).
- 1.10 The Strategic Plan (2007 – 2010) and Statement of Intent (2009 – 2012) establish the following outcome for this research:

2007 – 10 Strategic Plan (page 53)
 - Young people progress to higher levels of achievement in their artistic development.
2009-12 Statement of Intent (page 15)
Outcome 2 - High-Quality New Zealand Art is Developed:
 - New Zealand artists, practitioners and organisations acknowledged for their innovation and quality are supported
 - Artists, practitioners and organisations with high potential are supported to develop their skills and capabilities.
- 1.11 CNZ's Arts Development Team will lead the research and commission this external research project.

2. Aims and objectives of the project

- 2.1 This research will provide CNZ with a description of current trends in the practice and development needs of young emerging arts practitioners and identify how CNZ might best support the creation, production, presentation, promotion, distribution and documentation of artwork by young emerging artists. The research will consider all forms of arts practice and provide an independent, qualitative, written assessment.
- 2.2 The aims of the project are
 - To provide quantitative and qualitative information and analysis on the practices and development needs of young emerging arts practitioners to enable CNZ to develop future policy.

3. Approach to the project

3.1 The research will be guided by the following areas of inquiry:

3.1.1 Demographics:

Identify the current demographic make-up of young emerging arts practitioners by

- age, ethnicity, gender
- geographical spread
- socio-economic background.

3.1.2 Practice:

Identify significant practice by young emerging arts practitioners, i.e.

- the main art forms, creative themes, development styles/formats/methodology and scale
- the quality of this practice and the nature of innovative practice
- levels of commitment (e.g. time) to their practice
- the strengths of their practice
- the weaknesses of their practice
- their attitudes and concerns including their priorities.

3.1.3 Support:

Identify the current support available to, and being accessed by, young emerging arts practitioners, including

- infrastructure support (e.g. venues, organisations), resources, funding,
- support networks and partnerships (including relationships with the wider arts sector)
- types of work currently receiving and not receiving support.

3.1.4 Environmental influences:

Identify the current environmental factors impacting on how young emerging arts practitioners are developing their work, i.e.

- societal attitudes
- economic climate.

3.1.5 Practice development:

Identify key professional development pathways and skill levels of young emerging arts practitioners, including

- training – formal and informal (e.g. mentoring, cultural transmission)
- Skills [present and not present] including business, marketing, touring, management resources and skills

3.1.6 Audiences:

Identify audiences currently accessed by young emerging arts practitioners and the ways in which young emerging arts practitioners are accessing these audiences.

3.1.7 Opportunities for development:

Identify the current opportunities for development for young emerging arts practitioners.

- 3.1.8 Barriers to development:
Identify the current barriers to development for young emerging arts practitioners.
- 3.2 The research will:
- a) build on and be able to dock with existing strategy, policy, and research (internal and external)
 - b) examine the particular views of Māori and Pasifika arts practitioners towards the notion of "emerging"
 - c) produce data which are able to be translated into effective strategy/policy
 - d) be achievable within budget and time constraints.
- 3.3 Analysis will include:
- a) description of current practice by young emerging arts practitioners
 - b) description of development pathways undertaken by young emerging arts practitioners
 - c) identification of gaps in support within these development pathways
 - d) alignment (or otherwise) of the areas that CNZ currently supports and areas that young emerging arts practitioners are developing
 - e) identification and description of the nature of innovative practices amongst young emerging arts practitioners
 - f) identification of critical partners and their potential roles
- 3.4 CNZ will
- a) CNZ will supply internal research data and current funding support to the contractor
 - b) Prepare a paper and any relevant recommendations for the Arts Council

4. Anticipated methods

- 4.1 The contractor, in conjunction with CNZ, will develop the details of the research questions and approaches. It is envisaged that the above areas of inquiry will form the basis for that discussion.
- 4.2 Focus groups, surveys and questionnaires are envisaged as the means of providing key stakeholders with the opportunity to participate in the research by responding to an agreed set of targeted questions.
- 4.3 Interviewees will include practitioners, arts organisations, artist development organisations, central and local government, training and other related organisations.
- 4.4 CNZ will work with the contractor to provide access to interviewees.
- 4.5 The Final Research Report will include case studies of successful/quality/innovative projects, outlining key characteristics including practitioner and audience demographics, nature of practice, support, career development of practitioners involved and opportunities for, and barriers to future development.

5. Timeframe

Step	Activities	Output	Who is taking the lead?	Timing (by when)
One	Selection of Tender	Tender – agreed	Internal Reference Group	22 March
Two	Methodology/approach agreed Contract signed	Contract	Arts Development	5 April
Three	External research phase starts	Interviews, survey, data gathering	Contractor	19 April
Four	External research phase completed		Contractor	14 June
Five	Collate and analyse information Discussion with IRG		Contractor	28 June
Six	Draft external research findings and report received by CNZ for feedback Presentation to IRG	Draft Report received	Contractor	12 July
Seven	Review and feedback from CNZ		Arts Development	19 July
Eight	Final report received by CNZ	Final Report	Contractor	26 July

6. Key internal stakeholders, roles and responsibilities

Stakeholder	Role/ Responsibility
Cath Cardiff, Manager: Arts Development	Project manager and senior contact person
Dr Calvin Scott: Strategy Adviser	Project team leader, day to day contact, to provide information to successful contractor and facilitate any consultation with other stakeholders
Internal Reference Group <ul style="list-style-type: none"> • Manager, Arts Development – Cath Cardiff • Programmes Manager – Rose Campbell • Senior Programme Advisor – Chris Archer • Strategy Adviser – Dr Calvin Scott • Advisor, Maori Arts – Ria Hall • Senior Adviser, Pacific Arts – Anton Carter • Organisations Advisor – Rob Gittins 	To provide feedback on the project. To be updated at milestones of the project. To discuss relevant strategies and policies informed by the findings of the research.
Senior Management Team	To be updated at milestones of the project. To approve final report and recommendations to be presented to Arts Council and Boards
Arts Council and Boards of Creative New Zealand	To be updated at milestones of the project. To adopt relevant strategies and policies informed by the findings of the research.

PART 2: STATEMENT OF REQUIREMENTS

1. Purpose of Request for Tenders

In summary, the purpose of this RFT is to invite tenders from suitably qualified and experienced consultants to provide a detailed report on *Young Emerging Arts Practitioners in New Zealand*. Suggestions regarding the format of the project should be outlined in tenders.

2 Outputs

- 2.1 Interested Tenderers should outline how they will:
- undertake the research and apply the proposed methodologies;
 - consult with internal and external stakeholders;
 - consider existing written reports, reviews, research publications and case studies;
 - consider secondary, benchmark research; and
 - produce a comprehensive report in line with the project goals.
- 2.2 A draft written report and a final written report with executive summary.
- The final draft will be preceded by at least one draft copy for CNZ comment and amendment;
 - the final report will meet the project's objectives; and
 - the contractor will seek CNZ approval for a draft report structure prior to drafting the report.

3. Budget

- 3.1 Prospective Tenderers should note that the Project be undertaken within a **\$50,000** budget (GST exclusive). The respective budget will shape and influence the scope of this research project.

4. Reporting and payments:

- 4.1 At key stages of the research project, the contractor will update the CNZ Arts Development Team on their progress. CNZ will work closely with the contractor to provide access to relevant data. As a minimum, the consultant will be required to report against the following milestones. Payment for services will be linked to these milestones:
- Consultancy commences, methodology reviewed and modified as necessary in consultation with CNZ
 - Methodology and key questions confirmed in consultation with CNZ
 - Provision of progress report provided
 - Draft report structure received by CNZ
 - Draft report received by CNZ
 - Final report received by CNZ.

4.2 Payments will be in three installments as follows:

- \$20,000.00 on commencement;
- \$15,000.00 on submission and acceptance of a satisfactory progress report;
- \$15,000.00 on conclusion, submission and acceptance of a satisfactory final report.

The consultant will provide copies of all reports and other documentation in electronic form. This could include HTML 4.0, Adobe Acrobat or Microsoft WORD 2000. The successful Tenderer needs to be able to produce the report in all three formats.

5. Terms

5.1 The successful Tenderer will be required to enter into a contract for services with CNZ covering the work to be undertaken and accountability, including financial accountability for the use of public funds.

5.2 A copy of the *Standard Conditions of Contract* is attached to this Request for Tenders and includes the following terms:

- all intellectual property in the materials and report will belong to CNZ;
- where specified personnel are unable to undertake work in respect of the consultancy services, the selected Tenderer must notify CNZ immediately. The selected Tenderer shall, if so requested by CNZ, provide replacement personnel acceptable to CNZ at no additional charge and at the earliest opportunity;
- CNZ may, at its absolute discretion, give notice, requiring the selected Tenderer to remove personnel (including specified personnel) from work in respect of the consultancy services. The selected Tenderer shall promptly arrange for the removal of such personnel from work in respect of the consultancy services and their replacement(s) with personnel acceptable to CNZ;
- if the consultant is unable to provide acceptable replacement personnel CNZ may terminate the contract;
- CNZ reserves the right to negotiate the final approach to undertaking this research.

PART 3: EVALUATION AND SELECTION

1. General

- 1.1 The objective of the evaluation and selection process is to identify the tender that best meets CNZ's requirements and represents the best value for money. CNZ and associated parties will act fairly and be consistent in its dealings with all Tenderers.
- 1.2 Tenders will be evaluated to determine that the requirements set out in this Request for Tenders are satisfied. Those tenders that do not meet all requirements may be excluded from further consideration.
- 1.3 CNZ reserves the right to seek information from any source on any organisation submitting a tender.
- 1.4 CNZ may invite Tenderers to give a short presentation or presentations to the selection panel to clarify and expand on Tender details.

2. Evaluation

- 2.1 In evaluating tenders, CNZ may consider elements such as the financial viability of a Tenderer, overall compliance with CNZ policies and the tender requirements in advance of other criteria.
- 2.2 In preparing their proposals, consultants shall address each of the criteria listed below. Each proposal will be assessed against criteria that includes, but are not necessarily limited to, the following points (which are not necessarily listed in order of importance):
 - the extent to which the proposal establishes that the research project's goals will be met;
 - the degree of relevance and appropriateness of the expertise, qualifications and experience of the personnel proposed to undertake the assignment;
 - demonstrated capacity and ability to manage a complex research and reporting programme;
 - the ability to complete the assignment within the stated time frame;
 - the total cost and value for money;
 - overall compliance with the brief, tender conditions and any attachments; and
 - CNZ reserves the right to attach weightings to criteria.

3. Specified personnel

3.1 Prospective Tenderers must provide the names, expertise, qualifications, experience and proposed roles of all proposed personnel. In particular, the following details are to be provided about the specified personnel:

- knowledge of, and experience in research (both qualitative and quantitative) and evaluation;
- knowledge of the arts in new Zealand and working with diverse communities, including young people;
- knowledge of and experience in public policy and government funding programmes; and
- knowledge of and experience in the arts and New Zealand's broader cultural sector.

3.2 Examples of previous comparable work should be provided where possible with an outline of the methodology applied in its preparation.

4. Additional considerations

4.1 In assessing proposals, consideration will also be given to:

- a) Referees' comments;
- b) Potential for conflict of interest;
- c) Adherence to all standards of conduct as indicated by the relevant professional association (as applicable);
- d) Overall compliance with the terms of this request for tender;
- e) Ability to comply with CNZ's '*Standard Contract for Services*'.

5. Timetable for tender selection

It is proposed that the following timetable for the selection of tender shall apply.

Stage	Task	Estimated completion date (2010)
1.	• Invite tenders	26 February
2.	• Lodgment deadline	15 March
3.	• Acknowledge receipt of tenders	3 days after lodgment deadline (18 March)
4.	• Select tender	22 March
5.	• Methodology agreed and contract signed	5 April
6.	• Notify unsuccessful Tenderers	5 April

CNZ reserves the right to suspend or cancel the process at any stage.

6. Financial and business reports

- 6.1 In addition to the information provided in the tender submission, CNZ may obtain independent financial and business reports to determine Tenderers' business viability and capacity to perform/provide the required services. In responding to the Request for Tenders, Tenderers are giving consent to CNZ to obtain such information.
- 6.2 If contracted to manage a project, the selected Tenderer may be required to submit audited financial statements at the end of each financial year
- 6.3 Tenderers must ensure that full disclosure is made of all current and past financial and legal matters relating to the Tenderer and its personnel which may affect:
 - an assessment of the Tenderer's business integrity; or
 - the Tenderer's financial viability; or
 - the Tenderer's ability to maintain services.
- 6.4 CNZ undertakes to treat all information obtained with respect to the financial viability of a Tenderer with the same degree of security and confidentiality as afforded to the tender information and documents.

7. Acceptance of offer/selection of successful tender

- 7.1 CNZ is not bound to accept the lowest or any bid.
- 7.2 CNZ reserves the right to select some, or none of the tenders at its sole discretion.
- 7.3 CNZ reserves the right to liaise or negotiate without restriction with Tenderers or any other person at any time on any matter contained in a tender, without disclosing this to, or involving any other Tenderer or person.
- 7.4 No tender will be considered to have been successful unless and until a letter of offer has been dispatched and accepted in writing, following which a contract between CNZ and the Tenderer will be executed.
- 7.5 All Tenderers will be informed in writing of the outcome at the conclusion of the tender process.
- 7.6 The *Standard Conditions of Contract* will be the basis for the final contract and the successful Tenderer, in accepting the offer of the assignment will be taken to have agreed with the terms and conditions of the CNZ's *Standard Conditions of Contract*. CNZ reserves the right to make changes to the draft conditions of contract. The contract will contain the entire agreement between the parties.
- 7.7 Nothing in this RFT shall oblige CNZ to discuss, justify or give reasons for any of its decisions or action relating to this RFT or any tender.
- 7.8 CNZ shall have no liability for any cost or loss to tenderer if they are unsuccessful, or this RFT is cancelled, suspended or changed.

8. Non-disclosure

- 8.1 If the Tenderer engages in misleading or deceptive conduct or omits to provide information to CNZ:
- a) that is material to the performance of the contract; or
 - b) which may have affected CNZ's decision to enter into the contract, the terms and conditions on which CNZ entered into the contract, or an action taken by CNZ under the contract,

CNZ may reject a Tenderer's submission or terminate the contract if one has been awarded.

PART 4: TENDERER'S PROPOSAL

1. The proposal

- 1.1 At minimum, Tenderers must provide the following information:
- a) company details;
 - b) a contact for liaison and notices;
 - c) acceptance of or compliance with the Request for Tenders and the terms of the Conditions of Contract;
 - d) evidence of the financial viability of the Tenderer – if applicable;
 - e) a detailed budget or quotation of costs covering all Outputs and fees;
 - f) a statement, for each Output, of any anticipated travel and/or associated allowance required in producing the Output;
 - g) an outline of the proposed approach to undertaking the assignment and achieving the assignment's objectives, including a clearly articulated methodology, detailed work-plan and timeline;
 - h) evidence of you or your company's capacity to undertake and deliver on the assignment, including a statement of past experience in providing similar services, particularly where those services were provided to government agencies, and including a list of three referees within previous client organisations whom CNZ may contact to assist in its evaluation of tenders received;
 - i) details of any nominated personnel with particular experience and/or expertise who will assist in undertaking the assignment as specified under 'Specified Personnel'; and
 - j) any relevant supplementary material.

2. Conflict of Interest

- 2.1 Tenderers must disclose any potential or actual conflicts of interest that may arise in their responsibilities to CNZ and other parties in the course of delivering the contracted services.
- 2.2 Where a conflict of interest is identified, Tenderers should specify how the conflict will be addressed and monitored, and how CNZ may be assured that the conflict of interest will not give rise to outcomes inconsistent with the project's desired outcomes.

3. Statement of Compliance

- 3.1 Where a Tenderer indicates that its response, in whole or in part, is not compliant with this Request for Tenders, including the *Standard Conditions of Contract*, the extent of non-compliance must be stated. Tenderers must also provide reasons and details of any element or part of the offer that ‘significantly exceeds requirements’ and of any alternative proposal, including the price differential between compliance and non-compliance.
- 3.2 The Tenderer must provide separately a summary list of paragraphs or clauses in respect of which there is non-compliance, or where the offer ‘significantly exceeds requirements’.

4. Packaging and identification of tenders

- 4.1 Tender documents must be enclosed in a sealed envelope or other sealed container. The envelope or container must be clearly marked:

“Young Emerging Arts Practitioners: Research Tender”

and addressed to the ‘Lodgment Location’ (see details on page 22).

5. Supplementary material

- 5.1 Tenderers may attach additional or explanatory information as ‘Supplementary Information’ to their Tender, should they consider this necessary.
- 5.2 Supplementary material is material additional to the formal tender which elaborates or clarifies the formal tender but which does not alter it in any material aspect. Supplementary material that effectively alters the formal tender will not be admitted for evaluation.
- 5.3 Packages containing supplementary material must be clearly labeled ‘Supplementary Material’.
- 5.4 Supplementary material must be provided by the deadline set for lodgment of tenders unless specifically requested by CNZ subsequent to that date.

6. Clarity of response

- 6.1 CNZ will not accept responsibility for any misunderstanding arising from the failure by a Tender to comply with Part 4 of this document, or arising from any ambiguity contained in the Tenderer’s response.

PART 5: GENERAL CONSIDERATIONS

1. Onus on Tenderer

- 1.1 Tenderers are responsible for ensuring that they have:
- examined this RFT and all documents referred to in this RFT;
 - examined any information made available in writing by CNZ to Tenderers for the purpose of tendering;
 - examined all further information which is obtainable by making reasonable inquiries relevant to the risks, contingencies and other circumstances having an affect on their tenders; and
 - satisfied themselves as to the correctness and sufficiency of their tenders including tendered prices.
- 1.2 Tenderers are responsible for all costs incurred in the preparation and lodgment of tenders and in respect of any discussions, negotiations, enquiries or any work undertaken by them after the tender has been submitted.

2. Amendments and clarifications

- 2.1 CNZ may amend or provide clarification of this Request for Tenders at its absolute discretion and without notice up until the deadline. However, CNZ will not amend this Request for Tenders on or after the deadline without extending that date.
- 2.2 Where, in the opinion of CNZ, further information provided to one Tenderer should be provided to all Tenderers, or any information, amendment or clarification of this Request for Tenders is required, such information will be given the same distribution as the original Request for Tenders.

3. Tenderer's information

- 3.1 All tender documents become the property of CNZ on submission.
- 3.2 CNZ may make confidential copies of the tender documents for any internal CNZ purpose related to this Request for Tenders.
- 3.3 All information provided in response to this Request for Tenders will be:
- retained by CNZ for the purposes of the Tender process, and can be destroyed by it thereafter;
 - available for use by CNZ and its advisers and consultants for any purpose connected with the Tender process; and
 - is not returnable to the Tenderer.

- 3.4 Where a Tenderer claims intellectual property rights in respect of any part of its response to this Request for Tenders and provided the claim is clearly made and the part in respect of which it is made is clearly identified, CNZ will give effect to that claim.
- 3.5 Where a Tenderer believes that information provided in response to this Request for Tenders:
- is, or should be, confidential; or
 - disclosure of this information would unreasonably affect the Tenderer's personal privacy; or
 - disclosure of this information would unreasonably affect the Tenderer's business affairs.
- 3.6 Then notice is to be given at the time of delivery by the Tenderer of the information or documents by clearly marking such information 'confidential' or 'commercial-in-confidence'. CNZ will give effect to the Tenderer's stated wishes in so far as its obligations under the law permit. CNZ cannot, however, guarantee that information marked as such can be protected if CNZ receives a request for disclosure under the Official Information Act. CNZ reserves the right to use any information provided in response to the Request for Tenders for the financial monitoring of successful organisations and for any reviews and/or investigations it may subsequently undertake.

4. Use of sub-contractors

- 4.1 Tenderers must indicate if they intend to use sub-contractors to perform the obligations of the contract and must provide the names and addresses of those sub-contractors. CNZ may require a Tenderer to submit similar information (including, without limitation, the giving of similar undertakings, warranties and indemnities) to that required to be furnished by the Tenderer under this Request for Tenders, in respect of any of the sub-contractors to whom the Tenderer proposes to sub-contract.
- 4.2 CNZ's approval in writing is required before any changes are made to proposed sub-contracting arrangements. CNZ is not obliged to accept any changes to sub-contracting arrangements. Tenderers will take full responsibility for ensuring the suitability of the sub-contractor for the proposed work to be carried out and for ensuring that such work meets the requirements of the contract.

5. Language and measurement

- 5.1 All tenders and supporting material must be in English (although the use of Te Reo and Pacific languages maybe appropriate in explaining relevant concepts and art form practices) and all measurements in New Zealand legal units of measurement.

6. Prices, Fees and Allowances

- 6.1 Tendered Prices: Tendered prices shall be in New Zealand Currency, must clearly identify all costs, fees, allowances and charges against each service that the Tenderer offers CNZ. Tendered prices shall be firm for the period of the contract.

6.2 Travel and Accommodation

- 6.2.1 If travel forms part of the attached contract deliverables, or if the prospective Tenderer believes that travel would form part of the execution of this contract, then all travel costs associated with the proposed costing should be clearly detailed as a separate item in the Tender.
- 6.2.2 If circumstances arise, in which the selected Tenderer considers that additional travel is necessary and for which costs were not included in the original bid, the selected Tenderer must notify CNZ's contact person for this project and supply a written quote detailing the additional costs and reasons for travel. No travel is to be undertaken by the selected Tenderer without prior approval of CNZ. Unapproved travel expenses will not be reimbursed. The details provided by the selected Tenderer will enable a Variation of Contract to be drawn up by CNZ.
- 6.2.3 Any travel or accommodation expenses instigated by CNZ that are not included in the original bid, require the contractor to supply a written quotation on advice from CNZ's contact person for this project, detailing the additional amount to enable a Variation of Contract to be drawn up by CNZ.
- 6.2.4 Where approved, the selected Tenderer will be reimbursed for travel costs to a maximum of economy class airfares, accommodation and meals at CNZ rates, and taxi-fares where supported by appropriate evidence and supporting documentation in accordance with the *Standard Conditions of Contract* and this section.

7. Goods and Services Tax

- 7.1 The selected Tenderer must comply with the provisions in the *Standard Conditions of Contract* that pertain to GST and any other relevant requirements of Inland Revenue.

8. Further information prior to the deadline

- 8.1 Tenderers' requests for further information about the Request for Tenders.
- 8.2 All requests for further information regarding this Request for Tenders must be directed to CNZ's nominated contact person for this project.
- 8.3 Where CNZ requires it, requests for further information must be put in writing and sent to the CNZ contact person.

9. Further information after the deadline

- 9.1 Answers to requests for further information may be given verbally or by written notice from CNZ, at its sole discretion. If considered necessary by CNZ, an interview may be arranged to discuss the inquiry.
- 9.2 Where, in the opinion of CNZ, further information provided to one Tenderer should be provided to all Tenderers, such information will be given the same distribution as the original Request for Tenders.

10. Requests from Tenderers on the status of the evaluation process

- 10.1 CNZ will not accept or respond to Tenderers' requests for information on the status and progress of the tender evaluation process.
- 10.2 All Tenders will be informed in writing of the outcome of the tender process at its conclusion.

11. Requests from CNZ for further information from Tenderers

- 11.1 Each Tender shall nominate a person to answer queries that may arise during the evaluation of tenders. The name, title, address, telephone and facsimile numbers, and e-mail address of that person must be included in the Tenderer's Response Section.
- 11.2 If, in the opinion of CNZ, there are minor errors, omissions, or discrepancies in a tender, CNZ may request the Tenderer to give a correction or clarification provided that:
- the Tenderer does not make any material alteration or addition to its tender; and
 - the Tenderer must reply to any request from CNZ under this section within two (2) working days of that request.
- 11.3 Where such clarification materially alters the formal tender, CNZ may not admit it for evaluation. Evaluation will be based on the information provided in tenders where answers to specific queries are not provided within the specified time.

12. Suspension, termination or abandonment by Creative New Zealand

- 12.1 CNZ may suspend, terminate or abandon this RFT at any time if the services will not be required, or if the requirement for such services is significantly reduced or varied due to changes in policy, administration, or for any other reason. In that event, Tenderers will be notified in writing by CNZ.

13. The contract

- 13.1 No Binding Agreement: There is no binding agreement, express or implied, between CNZ and any Tenderer for the Provision of the Services requested in this Request for Tenders unless and until a letter of offer of contract is provided by CNZ and its acceptance in writing by the Tenderer is received by CNZ and a contract is duly executed by both CNZ and a Tenderer.
- 13.2. Form of Contract:
- 13.2.1 Acceptance of the preferred Tender will be subject to the execution of a contract between CNZ and the successful Tenderer, which may be the subject of post-tender negotiations.
- 13.2.2 Although CNZ intends that the *Standard Conditions of Contract* will form the basis for the final contract, CNZ reserves the right to make changes to the contract before entering into a contract with the successful Tenderer.

13.2.3 Tenderers are required to indicate their compliance or otherwise with the contractual conditions. A copy of the *Standard Conditions of Contract* is attached.

14. Instructions for completing the Tenderer's Response

The *Tenderer's Response* is to be completed in the manner described in **PART 4**. Tenders that do not comply with these instructions may not be considered for evaluation. The decision of CNZ is final in that respect.

15. Copies of Tender

Five (5) copies of the tender and five (5) copies of any supplementary material must be submitted so that they will be received at the lodgment location by the deadline. The original is to be marked 'Original' and remaining copies to be marked 'Copy No 1' and so on respectively. In the event of any discrepancy between the copies and the original, the original will prevail.

PART 6: CONDITIONS OF TENDERING

1. Conditions of Lodgment

Location and Deadline for of Tenders

ALL TENDERS MUST BE ADDRESSED TO:

Dr Calvin Scott
Strategy Adviser

Creative New Zealand
P O Box 3806
WELLINGTON 6140

or

Creative New Zealand
Level 2, Old Public Trust Building
131 - 135 Lambton Quay
WELLINGTON 6011

AND MUST BE MARKED:

Attention: **Young Emerging Arts Practitioners: Research Tender**

AND DELIVERED BY:

5 pm Monday 15 March 2010

Creative New Zealand accepts no responsibility for tenders not received by the deadline or addressed to the wrong location.

Tenders submitted by facsimile or email will not be accepted, nor will tenders mailed on but not received on the closing date. Any tender received at any location other than the place of lodgment or lodged after the deadline will be treated as a late tender.

Creative New Zealand will decide whether to admit a late tender application, but will do so only in exceptional circumstances considered to be beyond a Tenderer's control.

2. Lodgment Form

(For Completion and Submission with Tender)

Attached

3. Standard Conditions of Contract

Attached

Please complete this form and submit with your Tender

Tenderer's Details

Company Name:

or

If Partnership, the Trading Name (if any) and full names of the Partners:

or

If Sole Trader, Trading name (if any) and the full name of the Trader:

or

Other, and the full name of the organisation:

Contact for Liaison and Notices:

Mr/Mrs/Ms/Dr

Postal Address:

Telephone:

Facsimile:

E-mail:

CREATIVE NEW ZEALAND

AND

CONTRACT FOR SERVICES

AGREEMENT date

PARTIES

THE ARTS COUNCIL OF NEW ZEALAND TOI AOTEAROA, (trading as Creative New Zealand) ("Creative New Zealand")

AND

"Contractor")

THE PARTIES AGREE THAT:

1. Term of Contract

1.1 This Contract will commence onand terminate on....., unless it is extended by agreement between the parties or earlier terminated in accordance with this Contract.

2. Contract for Services

2.1 The Contractor is engaged by Creative New Zealand under a contract for services and is an independent contractor. No relationship of any other kind shall exist between the parties.

2.2 Notwithstanding any practice that may occur in the day to day dealings of the parties, nothing specified or implied into this contract shall create or establish a relationship of employment, principal and agent, or partnership between the parties.

2.3 Contractor's employees are not Creative New Zealand's employees and Contractor is responsible for paying all tax, levies and payment relating to its employees.

3. The Services

3.1 The Contractor will provide and undertake the services detailed in the Schedule ("the Services"). The Contractor shall meet and/or report to Creative New Zealand'sin respect of performing the Services as required by Creative New Zealand from time to time.

3.2 The Contractor or the Contractor's personnel specified in the Schedule will provide the services. Creative New Zealand may in its discretion give notice to the Contractor requiring the removal of specified personnel from work on the Services and the Contractor will promptly arrange for the removal of such personnel and the replacement with an acceptable personnel. If an acceptable replacement is not available, Creative New Zealand may without limiting any remedies available to it, terminate this contract.

3.3 The Contractor will not subcontract or otherwise delegate the services to any other person or organisation, without the prior written consent of Creative New Zealand. The Contractor is liable for all acts or omissions of any subcontractor and the subcontracting of any Services will not release Contractor from liability for the performance of any of its obligations under this Contract.

3.4 Where the contractor is unable to perform the services for any reason whatsoever, the contractor must immediately notify Creative New Zealand and Creative New Zealand may without limiting any remedies available to it, terminate this contract.

3.5 The Contractor will perform the Services to Creative New Zealand's standards as advised from time to time.

- 3.6 In providing the Services, the Contractor shall:
- (i) not be under the influence of alcohol or non-prescription drugs; and
 - (ii) exercise the degree of care, skill and diligence required of a professional providing similar services.
- 3.7 If the Services that Contractor performs are not in Creative New Zealand's opinion of an acceptable standard or quality, not completed within the time frame or on the agreed dates or otherwise in accordance with Creative New Zealand's requirements, then Creative New Zealand may without limiting any remedies available to it, require Contractor to immediately remedy the deficiency, withholding payment due to the Contractor until it is satisfactorily remedied, or if it cannot be remedied, deduct a proportion of any payment due to the Contractor to reflect the deficiency.

4. Independence

- 4.1 Except as required to perform the Services, the Contractor shall not hold themselves out as an agent of Creative New Zealand for any purpose whatsoever. The contractor shall not commit staff or resources of Creative New Zealand, or incur any debt or obligation in the name of Creative New Zealand, without the prior written consent of Creative New Zealand.
- 4.2 The Contractor shall immediately inform Creative New Zealand if they becomes aware of any potential conflict of interest in respect of performing the Services, which may impinge on the Contractor's independence or impartiality.

5. Payment for Services

- 5.1 The Contractor shall be paid for performing the Services, the fee detailed in the Schedule of this Contract.
- 5.2 The Contractor shall not be entitled to any payments or reimbursements other than those specified in the Schedule. Without affecting the generality of this provision, the Contractor shall not be entitled to sick leave, penal rates, holiday pay, or redundancy compensation.

6. Claims for Payment

- 6.1 If Contractor is entitled to reimbursement for any expenses, the Contractor shall accurately record those incurred in providing the Services. The Contractor shall submit claims for payment to Creative New Zealand. Receipts or other appropriate evidence must accompany all claims for reimbursement of expenses.
- 6.2 Payment for services and reimbursement of expenses shall be made by Creative New Zealand within 15 working days of receipt of acceptable tax invoice and claims for payment. Any claims for payment which are received more than 20 working days after they have been incurred shall not be paid, unless the delay was due to circumstances outside the control of the Contractor.
- 6.3 Where Creative New Zealand disputes any amount in any invoice submitted by the Contractor, it shall advise the Contractor in writing of the nature of the dispute, and pay any undisputed amount of the invoice. The dispute resolution provisions of this Contract shall then apply in respect of resolving any disputed amount in any invoice.

7. Taxation

- 7.1 The Contractor shall register for GST with the Inland Revenue Department if required to do so under the GST Act.
- 7.2 If the Contractor is registered for GST, the contractor must issue GST invoices to Creative New Zealand in submitting claims for payment.

- 7.3 Subject to clause 7.4, the Contractor shall be solely responsible and liable for the payment of any income tax, levies, impositions or other such obligations in respect of payments made by Creative New Zealand under this Contract.
- 7.4 If Creative New Zealand is required by law to make any taxation deduction, withholding or payment from any amount paid or payable by it to the contractor under this contract Creative New Zealand shall make such a taxation deduction, withholding or payment and the amount required to be paid by Creative New Zealand under clause 5.1 will be reduced accordingly. If Creative New Zealand wrongly fails to make a taxation deduction, it will be entitled to recover such amounts from the Contractor.
- 7.5 The Contractor shall comply with all statutory and regulatory requirements and directions of the Inland Revenue Department with regard to the filing of returns and payment of any tax.

8. Health and Safety

- 8.1 Creative New Zealand is responsible for ensuring that the requirements of the Health and Safety in Employment Act 1993 are met when the Contractor is working on Creative New Zealand premises.
- 8.2 The Contractor shall assist Creative New Zealand in taking all practical steps to ensure that the Contractor's place of work is safe and free of hazards. All hazards that are identified by the Contractor must be reported to Creative New Zealand so that appropriate action may be taken to eliminate, reduce or isolate such hazards.

9. Equipment

- 9.1 It is agreed that you will supply, at your expense:
- 9.2 Creative New Zealand shall provide:
- 9.3 Where Creative New Zealand supplies the Contractor with any materials, or where materials come into the Contractor's possession as a result of providing the Services under this Contract, those materials will remain the property of Creative New Zealand and must be immediately returned to Creative New Zealand upon the termination of this Contract.

10. Insurance

- 10.1 The Contractor shall hold and maintain at the Contractor's cost, public liability insurance for at least \$500,000. Such insurance shall ensure that the Contractor is insured in respect of any expenses, losses, damages, and costs suffered by any person in connection with the Contractor's performance of this Contract. This insurance shall be maintained until all potential liabilities in respect of the performance of this Contract has ceased.
- 10.2 Evidence of this insurance policy must be provided to Creative New Zealand within five working days of this Contract commencing, and again upon each renewal of the policy.

11. Indemnity

- 11.1 The Contractor hereby indemnifies Creative New Zealand against any and all actions and demands for payment, compensation or damages, in respect of any breach of this Contract by Contractor or act or omission of the Contractor, her agents or employees, which occurs in connection with providing the Services under this Contract.

12. Intellectual Property

- 12.1 The Contractor acknowledges that the copyright and all other intellectual property rights in any works created by the Contractor in performing services under this Contract (including any merchandising rights in or arising from such work) including any modifications, adaptations or developments to existing intellectual property, shall be the sole and exclusive property of Creative New Zealand. The skills, knowledge, expertise and methods used to produce these works remain the sole and exclusive property of the Contractor.
- 12.2 The Contractor will not develop, create or use in the course of providing the Services any products, work or material which infringes or is likely to infringe the intellectual property of any person.

12.3 The Contractor shall, upon the request of Creative New Zealand, execute all instruments as Creative New Zealand may require, to ensure that Creative New Zealand enjoys all rights, interests and title in any such works.

13. Confidentiality

13.1 “Confidential Information” means all information, know how, concepts, ideas, data or business knowledge, provided by Creative New Zealand to Contractor and/or which relates to, or is created as part of, the performance of the Services, whether such information relates to the technical operations of Creative New Zealand or otherwise and includes but is not limited to:

- (i) The business or financial affairs of Creative New Zealand, its clients and suppliers; and
- (ii) Personal information (as defined in the Privacy Act 1993) relating to any other employee, funding recipient, or contractor to Creative New Zealand, its clients and suppliers; and
- (iii) Any discoveries, specialised knowledge or practices of Creative New Zealand.

13.2 The Contractor undertakes that at all times, both during the term of this Contract and after its termination, the Contractor will not:

- (i) Disclose any Confidential Information to any person, except so far as may be reasonably necessary to fulfil the Contractor’s obligations under this Contract; and
- (ii) Use any Confidential Information for the Contractor’s own benefit or in any other manner which would or may harm the interests of Creative New Zealand.

13.3 Contractor must, on termination of this Agreement, immediately return all confidential information to Creative New Zealand in Contractor’s possession or control and destroy or erase all copies of any notes, memoranda, documents (whether on paper or electronically held) prepared by or for the Contractor which contain or reflect any confidential information.

14. Dispute Resolution

14.1 Any dispute or difference arising out of this Contract, including its validity or termination, shall be referred to and finally resolved by arbitration in accordance with the provisions of the Arbitration Act 1996.

14.2 Before either party gives notice of commencement of any arbitration process, that party shall first have given written notice to the other party detailing the nature of the dispute and the remedy sought.

14.3 Within a reasonable time following receipt of the written notice, the parties shall meet to discuss the dispute and attempt to resolve it between themselves. Only if the dispute remains unresolved after reasonable attempts to resolve it have been made may either party commence any arbitration process in relation to the dispute.

15. Termination

15.1 Either party may terminate this Contract for any reason whatsoever, by providing the other party with one month’s written notice.

15.2 Notwithstanding clause 15.1 above, this Contract may be terminated without notice by Creative New Zealand if the Contractor:

- (i) is in breach of this Contract;
- (ii) is convicted of a criminal offence which Creative New Zealand considers is detrimental to its relationship with the Contractor;
- (iii) fails to perform any obligation under this Contract, including the provision of Services, in a satisfactory manner; or

- (iv) in the opinion of Creative New Zealand brings, or potentially brings Creative New Zealand into disrepute.
- 15.3 Where Creative New Zealand terminates this Contract under clause 15.2 or 3.4 above, the Contractor shall not be entitled to any compensation or damages, other than payment for work already performed and expenses already incurred.

16. Entire Agreement

- 16.1 This Contract constitutes the entire agreement between the parties and supersedes any and all prior agreements, representations and contracts between the parties.
- 16.2 Nothing in this Contract confers any rights or benefits on any person or organisation other than the parties.

17. General

- 17.1 Clauses 10-13 of this Contract survive termination of the Contract.
- 17.2 Notices may be given by either party to the other by letter or facsimile to the addresses specified in the Schedule. All notices will be deemed to have been given on the day of delivery, except in the case of posted notices, where delivery will be deemed to be two working days after the notice is posted.
- 17.3 This Contract shall be subject to and governed by New Zealand law.
- 17.4 In performing the Services, the Contractor shall comply with all applicable legislation.
- 17.5 No waiver of any breach of this Contract is effective unless the waiver is in writing. No waiver will be deemed to be a waiver of any other or subsequent breach of this Contract.
- 17.6 If any provision of this contract is determined by a Court or Arbitration Tribunal to be illegal, invalid or otherwise unenforceable, the legality and/or validity of the remainder of this agreement shall not be affected and will continue in full force and effect..

SIGNED ON BEHALF OF
**THE ARTS COUNCIL OF NEW ZEALAND TOI
AOTEAROA** by:

Signature

Name

SIGNED by

Signature

SCHEDULE

SERVICES:

The Contractor agrees to undertake all services necessary to provide the following:

- (a)
- (b)

FEE:

Payment will be made as follows:

- (a) \$

The Contractor will only be paid for those services provided at the request of Creative New Zealand.

EXPENSES:

Creative New Zealand will pay for contract-related disbursements provided they have been pre approved and only on production of appropriate evidence.

COMMUNICATIONS

All notices shall be served on the parties at the following addresses:

In the case of Creative New Zealand

Creative New Zealand
Old Public Trust Building
131-135 Lambton Quay
PO Box 3806
Wellington
New Zealand

Fax (04) 471-2865

Attention:

In the case of Contractor

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