

26 March 2009

Dear Supplier

**REQUEST FOR PROPOSALS – SUPPLY OF SUMATRIPTAN**

PHARMAC invites proposals for the supply of **sumatriptan tablets and injection** in New Zealand.

This request for proposals (**RFP**) letter incorporates the following schedules:

- Schedule 1 specifies the pharmaceutical for which PHARMAC is requesting proposals and sets out the background to the RFP and the types of proposals sought;
- Schedule 2 describes the process that PHARMAC expects to follow in relation to the RFP;
- Schedule 3 sets out information about the estimated size of the current subsidised market for the pharmaceutical; and
- Schedule 4 contains the RFP form in which you are to provide details of your proposal.

If you wish to submit a proposal, you must submit it to PHARMAC no later than **5.00 pm on Friday 17 April 2009**.

If you have any questions about this RFP, please contact Geraldine MacGibbon at PHARMAC on (04) 916 7514 or [geraldine.macgibbon@pharmac.govt.nz](mailto:geraldine.macgibbon@pharmac.govt.nz).

We look forward to receiving your proposal.

Yours sincerely



Matthew Brougham  
Chief Executive

## Schedule 1: Pharmaceutical, background to RFP and types of proposals sought

### 1. Pharmaceutical

PHARMAC is interested in considering any proposal from suppliers of **sumatriptan tablets and injection**.

### 2. Background to RFP

The background to this RFP is as follows:

- Sumatriptan tablets 50 mg and 100 mg and injection 12 mg per ml, 0.5 ml are currently listed fully subsidised in Section B of the Pharmaceutical Schedule at the following prices and subsidies:

Pharmaceutical	Brand Names	Form	Strength	Pack size	Price and subsidy
Sumatriptan	Arrow-Sumatriptan; Sumagran	Tablet	50 mg	4	\$12.00
Sumatriptan	Imigran	Tablet	50 mg	4	\$22.00
Sumatriptan	Arrow-Sumatriptan; Sumagran	Tablet	100 mg	2	\$12.00
Sumatriptan	Imigran	Tablet	100 mg	2	\$22.00
Sumatriptan	Imigran	Injection	12 mg per ml, 0.5 ml	2 OP	\$80.00

- Arrow-Sumatriptan and Sumagran are listed in Section H of the Pharmaceutical Schedule at the prices specified in the table above.
- Imigran tablets and injection dispensed in the community are subject to a confidential rebate. For the tablets, the effect of this rebate is to reduce the effective cost of Imigran 50 mg and 100 mg tablets to be in line with the price of generic sumatriptan tablets.
- Sumatriptan injection is subject to the following restrictions:
  - Hospital pharmacy [HP3]-Specialist
  - Maximum of 10 inj per prescription
- Imigran has protection from subsidy reduction and delisting until 1 January 2010, Sumagran has protection from delisting (but not subsidy reduction) until 1 April 2010, and Arrow-Sumatriptan has protection from subsidy reduction and delisting until 1 April 2010. There is also an agreement between PHARMAC and Rex Medical for the supply of Sumatriptan-Rex 50 mg and 100 mg sumatriptan tablets. Although this brand is not currently listed in the Pharmaceutical Schedule, if it was to be listed it would have protection from delisting (but not subsidy reduction) until 1 April 2010.

### 3. Types of proposals sought

(a) Suppliers wishing to submit proposals must submit proposals for community and hospital supply of sumatriptan 50 mg and 100 mg tablets. PHARMAC is willing to consider the following types of proposals:

- proposals that include additional strengths and/or presentations of sumatriptan; and/or
- proposals that include a period of subsidy protection and protection from delisting; and/or
- proposals that include expenditure caps, rebates or other expenditure risk-sharing mechanisms; and/or
- for currently funded strengths and presentations of sumatriptan only, proposals that include a period of sole subsidised supply and hospital supply status (hereinafter referred to as “**sole supply**”) of up to, but no more than, 3 years and 3 months, provided that the start of the sole supply period does not occur before 1 April 2010 and does not extend beyond 30 June 2013. For the avoidance of doubt, if proposals include a period of sole supply, the proposed sole supply must be sole subsidised supply and hospital supply status for all of the currently funded strengths and presentations of sumatriptan included in the proposal.

Please note if a proposal for sole supply of sumatriptan is accepted, there may be up to a 6 month transition period where the successful supplier’s brand is to be available for sale or supply and subsidised or purchased but would not be the sole subsidised brand of sumatriptan, or brand of sumatriptan with hospital supply status.

(b) PHARMAC is also willing to consider proposals for widening of access to sumatriptan injection via removal of some or all of the restrictions; however, suppliers wishing to submit proposals that include sumatriptan injection must submit at least one proposal for supply of sumatriptan injection under the current restrictions.

(c) PHARMAC is not willing to consider the following types of proposals:

- proposals that do not include both the 50 mg and 100 mg tablet strengths of sumatriptan;
- proposals that include a period of sole supply for strengths and/or presentations of sumatriptan that are not currently funded;
- proposals that include pharmaceuticals other than sumatriptan; or
- two-part pricing arrangements, whereby PHARMAC may make an up-front payment (in addition to any ongoing subsidy) in return for the listing of a pharmaceutical on specific terms.

## Schedule 2: RFP process

PHARMAC expects to follow the process set out below in the sequence indicated.

### 1. Submission

- (a) You may submit more than one proposal. Each proposal will be considered as a separate proposal.
- (b) Proposals must be submitted no later than **5.00 p.m. (New Zealand time) on Friday 17 April 2009**. Late proposals will only be considered at PHARMAC's discretion.
- (c) You cannot withdraw your proposal, once submitted, while the RFP process is continuing.
- (d) All proposals must be submitted to PHARMAC to the attention of **Geraldine MacGibbon**, either by facsimile (+64 4 460 4995) or email ([geraldine.macgibbon@pharmac.govt.nz](mailto:geraldine.macgibbon@pharmac.govt.nz)). Email is preferred.

### 2. Evaluation

- (a) Following the deadline for submitting proposals an Evaluation Committee comprising PHARMAC staff (including PHARMAC's Legal Counsel) will evaluate each proposal to select its preferred proposal(s).
- (b) The basis on which the Evaluation Committee will evaluate proposals, and the weight to be given to the criteria and other matters that it considers, are to be determined by the Evaluation Committee at its sole discretion. The matters to be taken into account by the Evaluation Committee will, however, include:
  - (i) the decision criteria set out in PHARMAC's then current Operating Policies and Procedures (**OPPs**), as published on PHARMAC's website ([www.pharmac.govt.nz](http://www.pharmac.govt.nz)), to the extent applicable;
  - (ii) any clinical advice from PTAC or its relevant Subcommittee;
  - (iii) any other matters that the Evaluation Committee considers to be relevant (provided that PHARMAC will notify such matters and allow an opportunity for submitters of proposals to address them).
- (c) Each proposal will be evaluated on the basis that the price offered, the expenditure entailed, and any other terms included in the proposal, are the best that the supplier is able to offer. If you do not put forward your best terms you risk having your proposal excluded at the evaluation stage.
- (d) PHARMAC is not bound to select the lowest priced proposal or any proposal.

### **3. PHARMAC may request further information**

- (a) PHARMAC may request such further information as it considers necessary from or about you for the purposes of clarifying or evaluating your proposal, including (but not limited to) a sample pack of the various strengths and presentations of sumatriptan included in the proposal (and if you intend supplying these in a different form from that sample pack, information about the form in which they will be supplied), in which case you must supply that information within 10 business days of PHARMAC requesting it.
- (b) If PHARMAC requests further information from or about you it is not obliged to request the same or any other information from or about any other party.

### **4. Negotiation**

- (a) PHARMAC may negotiate with the submitter(s) of one or more preferred proposals, in the latter case whether or not the acceptance of either supplier's proposal would exclude acceptance of the other proposal.
- (b) Negotiations will proceed on the basis that PHARMAC's standard terms and conditions for supply of pharmaceuticals, which are available on request from PHARMAC, will apply.
- (c) Given that PHARMAC expects your proposal to be the best you can offer, PHARMAC does not intend to initiate negotiation with you on price. However, PHARMAC does not exclude the possibility that the final price agreed will be different from the price put forward in your proposal, as a result of the impact that other negotiated terms may have on price.
- (d) PHARMAC may negotiate and enter into a provisional agreement with a preferred supplier(s) on whatever special terms, in addition to PHARMAC's standard terms and conditions, PHARMAC considers appropriate.
- (e) If PHARMAC and the supplier(s) are unable to reach a provisional agreement within what PHARMAC considers to be a reasonable time, PHARMAC may terminate those negotiations and negotiate with a different supplier(s).

### **5. Consultation and approval**

- (a) Any provisional agreement will be conditional on consultation with suppliers and other interested parties, to the extent PHARMAC considers consultation to be necessary or appropriate, and on Board approval (or approval by PHARMAC's Chief Executive under delegated authority).
- (b) PHARMAC will not consider any counter offers received during consultation.
- (c) The provisional agreement and responses to consultation will be considered by PHARMAC's Board (or by PHARMAC's Chief Executive under delegated authority) in accordance with the decision criteria in PHARMAC's then current OPPs.
- (d) If the Board or the Chief Executive does not approve the provisional agreement, then PHARMAC may initiate negotiations for a provisional agreement with any other supplier(s).

- (e) The RFP process will be complete once PHARMAC has notified suppliers of either:
  - (i) the Board's or its Chief Executive's decision to accept a negotiated agreement; or
  - (ii) the termination of the RFP process.

**6. Miscellaneous**

- (a) PHARMAC reserves the right:
  - (i) to make such adjustments to the above RFP process as it considers appropriate, at any time during the process, provided that it notifies suppliers affected by those changes;
  - (ii) not to accept any proposal;
  - (iii) to seek clarification of any proposal;
  - (iv) to meet with any supplier in relation to its proposal;
  - (v) to enter into an agreement or arrangement that differs in material respects from that envisaged in this RFP letter;
  - (vi) to suspend this RFP process. For example, if during the RFP process (and before a provisional agreement is entered into) it becomes apparent to PHARMAC that further consultation is appropriate or required we may suspend the RFP process in order to consult. In this situation we may ask you to adapt and resubmit your proposal in light of consultation, or alternatively we may request that new proposals be submitted;
  - (vii) to terminate this RFP process at any time, by notifying suppliers who submitted proposals, and, following termination, to negotiate with any supplier(s) on whatever terms PHARMAC thinks fit;
  - (viii) to readvertise for proposals.
- (b) PHARMAC may consult or seek clinical advice from PTAC or its relevant Subcommittee at any stage of the RFP process. PHARMAC will notify you if the clinical advice results in any changes to the terms of the RFP.
- (c) You must not initiate or engage in any communication with other suppliers in relation to the RFP, whether before or after submitting their proposal(s), until such time as a provisional agreement is accepted by PHARMAC's Board or Chief Executive.
- (d) You must not at any time initiate any communication with PHARMAC's directors or officers, the Ministry of Health, the Minister of Health or District Health Boards, with a view to influencing the outcome of this RFP process.
- (e) You must pay your own costs for preparing and submitting your proposal.
- (f) Proposals are submitted in reliance on your own knowledge, skill, and independent advice, and not in reliance on any representations made by PHARMAC.

- (g) Your submission of a proposal will be taken as acceptance of the terms contained in this RFP letter. PHARMAC may exclude your proposal if you do not comply with any of the terms contained in this RFP letter.
- (h) This is an RFP and not a tender. Your proposal is not an offer capable of being converted into a contract for the supply of sumatriptan by PHARMAC's apparent acceptance and instead a separate agreement needs to be negotiated.
- (i) PHARMAC is not liable in any way whatsoever for any direct or indirect loss (including loss of profit), damage or cost of any kind incurred by you or any other person in relation to this RFP.
- (j) PHARMAC will consider your proposal and information exchanged between us in any negotiations relating to your proposal, excluding information already in the public domain, to be confidential to us and our employees, legal advisors and other consultants, the Ministry of Health and DHBs (**Confidential Information**). However, you acknowledge that it may be necessary or appropriate for PHARMAC to release Confidential Information:
  - (i) pursuant to the Official Information Act 1982; or
  - (ii) in the course of consultation on a provisional agreement entered into with a supplier; or
  - (iii) in publicly notifying any approval by the PHARMAC Board of that agreement; or
  - (iv) otherwise pursuant to PHARMAC's public law or any other legal obligations.

PHARMAC may consult with you before deciding whether to disclose Confidential Information for the purposes described in sub-clauses (i) to (iv) above. You acknowledge, however, that it is for PHARMAC to decide, in its absolute discretion, whether it is necessary or appropriate to disclose information for any of the above purposes, provided that PHARMAC shall act in good faith in disclosing any Confidential Information.

## 7. **Anticipated timetable**

- (a) Following receipt of proposals, PHARMAC anticipates:
  - (i) the Evaluation Committee evaluating proposals in **April 2009**;
  - (ii) negotiating with submitter(s) of one or more preferred proposals in **April 2009**;
  - (iii) consulting on a provisional agreement in **May 2009**;
  - (iv) PHARMAC's Board or Chief Executive considering this provisional agreement in or after **May 2009**,

provided that the above time frames are only approximate and may be extended, without notice being required from PHARMAC, if any stages of the RFP process take longer than anticipated.

- (b) Under this indicative timetable, the earliest that changes to the Pharmaceutical Schedule could be implemented is **July 2009** (although, as mentioned in 3(a), sole supply could not commence prior to 1 April 2010 due to periods of subsidy and delisting protection applying to some brands of sumatriptan).

### Schedule 3: Current listing and market information

The following information relates to the estimated subsidised market size of sumatriptan. The information is approximate and indicative only. PHARMAC makes no representation as to the accuracy of this information or as to the level of sales or likely sales of sumatriptan and, while PHARMAC has taken all reasonable care in preparing the information set out below, it accepts no liability for any errors or omissions in the information.

The number of subsidised units (tablets and injections) for sumatriptan in the community for the years ending 31 December 2006, 31 December 2007 and 31 December 2008 is shown below.

<b>Pharmaceutical/form/ strength</b>	<b>YE December 2006</b>	<b>YE December 2007</b>	<b>YE December 2008</b>
Sumatriptan tablet 50 mg	638,862	692,146	739,854
Sumatriptan tablet 100 mg	269,783	291,572	308,976
Sumatriptan injection 12 mg per ml, 0.5 ml	62,424	60,278	59,008

The number of units (tablets or injections) of sumatriptan purchased by DHB Hospitals for the years ending 31 July 2006, 31 July 2007 and 31 July 2008 are shown below:

<b>Pharmaceutical/form/ strength</b>	<b>August 2005 to July 2006</b>	<b>August 2006 to July 2007</b>	<b>August 2007 to July 2008</b>
Sumatriptan tablet 50 mg	941	972	1,198
Sumatriptan tablet 100 mg	290	240	224
Sumatriptan injection 12 mg per ml, 0.5 ml	1,128	885	880

#### Schedule 4: Proposal form

***An electronic version of this form is available on request from [geraldine.macgibbon@pharmac.govt.nz](mailto:geraldine.macgibbon@pharmac.govt.nz). You should expand the boxes as necessary.***

**[Supplier to insert date]**

Chief Executive  
C/- Geraldine MacGibbon  
PHARMAC  
Level 9, Cigna House  
40 Mercer Street, PO Box 10-254  
Wellington 6143  
NEW ZEALAND

By email [geraldine.macgibbon@pharmac.govt.nz](mailto:geraldine.macgibbon@pharmac.govt.nz) or facsimile (+64) 04 460 4995

Dear Geraldine

#### **Proposal for the supply of sumatriptan**

In response to your request for proposals (**RFP**) dated 26 March 2009 we put forward the following proposal in respect of sumatriptan.

Set out below is further information in support of our proposal.

(a) Our contact details:

Name of supplier	
Contact person	
Address	
Phone	
Facsimile	
Email address	

(b) Details of pharmaceutical presentation:

Chemical name	
Strength (eg 100 mg)	
Form (eg capsule)	
Brand name	
Pack size (eg 100's)	
Packaging type (eg blister)	

(c) Key features of our proposal:

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(d) Information relating to pricing (\$NZ, GST exclusive), including any related conditions or proposed terms affecting cost for PHARMAC (e.g. price in return for sole supply, reference price protection, risk sharing mechanisms, etc.):

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(e) Evidence of market approval and any other required consents:

Date of market approval (please attach copy of Medsafe Gazette notice)	
<b>[OR</b> Date of submission of dossier (please attach confirmation from Medsafe that dossier has been submitted)]	
<b>[OR</b> Expected date of dossier submission to Medsafe]	
<b><i>Insert any other consents required for pharmaceutical</i></b>	

(f) Information about our ability to ensure the continuity of supply of the pharmaceutical:

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(g) Information about our previous supply performance and relevant expertise:

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- (h) Proposals/suggestions (e.g. pricing, risk sharing arrangements, etc) regarding the pharmaceutical not expressly identified in this RFP that we would like PHARMAC to consider as part of our proposal:

- (i) Reasons why PHARMAC should accept our proposal:

- (j) Additional information that PHARMAC should consider when evaluating our proposal: