PHARMAC
Pharmaceutical Management Agency

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16 November 2010

Dear Supplier

**REQUEST FOR PROPOSALS – SUPPLY OF TACROLIMUS**

PHARMAC invites proposals for the **sole subsidised supply of tacrolimus** 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 p.m. on **Friday 17 December 2010**.

If you have any questions about this RFP, please contact Jackie Evans (jackie.evans@pharmac.govt.nz) at PHARMAC.

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 proposals from suppliers for sole subsidised supply in the community and DHB hospitals for tacrolimus.

### 2. Background to RFP

The background to this RFP is as follows:

Tacrolimus is an immunosuppressant used to treat transplant patients. Tacrolimus (Prograf 0.5 mg, 1 mg and 5 mg capsules) is currently funded under Special Authority restriction for organ transplant recipients.

PHARMAC included tacrolimus (0.5 mg capsule, 1 mg capsule, 5 mg capsule, and 5 mg injection) in the 2009/10 Invitation to Tender ("the Tender"). We received bids from a number of suppliers. Following the receipt of the bids PHARMAC sought advice from the Transplant and Immunosuppressant Subcommittee of PTAC on the appropriateness of awarding a tender to a generic tacrolimus and also sought advice from PTAC on the bioequivalence of relevant generic tacrolimus brands compared with the currently funded innovator brand. Advice from both the Subcommittee and PTAC was that there was no clinical reason not to award a sole supply tender to a generic tacrolimus. However, the Subcommittee and PTAC considered that because of individual pharmacokinetic variability with tacrolimus, it would be important for patients to undergo therapeutic drug monitoring and potential dose adjustment if there were a brand switch (see Appendix 1 for relevant minutes). We note that a brand switch is not a certain outcome of a Tender, or indeed this RFP, however, it is one potential outcome.

PHARMAC recently received communication from transplant clinicians questioning whether the Tender was an appropriate mechanism to implement a brand switch. Although generally supportive of the introduction of generic brands of tacrolimus, they considered that the usual transition timeframe afforded by the Tender (2 months from listing to reference pricing) was not sufficient time to enable the additional tests and doctors visits required for all patients currently stabilized on Prograf to be safely switched to a generic brand of tacrolimus. PHARMAC agree that it may be difficult to implement a brand switch for tacroliums within the timeframes afforded by the Tender, therefore the Tender for tacrolimus was declined in October 2010 in favour of running this RFP process.

PHARMAC staff consider that it is appropriate to award sole supply status to a single brand of tacrolimus. However, if a brand switch is to be implemented we consider that it would be appropriate to allow a minimum 6 month transition period. Given the longer transition period, the additional visits and inconvenience required for patients to switch brands we also consider that it is appropriate for the sole supply period to be longer than offered through the Tender. We consider a sole supply period ending 30 June 2015 to be appropriate.

### 3. Types of proposals sought

(a) PHARMAC is willing to consider the following types of proposals:

(i) proposals that include a period of sole subsidised supply in the community and DHB hospitals (hereinafter referred to as "**sole supply**") provided that the sole supply period does not extend beyond 30 June 2015.

(ii) proposals that include a period of subsidy protection and/or protection from delisting.

(iii) proposals that include expenditure caps, rebates or other risk-sharing arrangements.

(iv) proposals that include cross-deal or bundling arrangements in respect of more than one chemical entity, therapeutic group or sub-group.

(b) Please note:

(i) Where a brand switch is implemented, sole subsidised supply in the community and DHB hospitals for tacrolimus would be subject to a first transition period of no less than 6 months.

(ii) If you wish to submit more than one proposal, at least one must be a proposal for sole supply of tacrolimus only.

(iii) Any generic supplier awarded Sole Subsidised Supply would be required to provide a summary of information regarding bioequivalence data to relevant clinicians and PHARMAC. A copy the supplier's proposed summary information must be supplied with the proposal.

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

(i) proposals that involve listing tacrolimus with a partial subsidy;

(ii) proposals that involve an end date for any risk-sharing arrangement; and

(iii) 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.

(d) Subject to the above, PHARMAC is open to considering any other types of proposals you may wish to put forward.

**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 December 2010**. 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 **Jackie Evans**, Therapeutic Group Manager, either by facsimile (+64 4 460 4995) or email (jackie.evans@pharmac.govt.nz). Email is preferred.

2. **Evaluation**

(a) Following the deadline for submitting proposals an Evaluation Committee comprising PHARMAC staff 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), to the extent applicable;

(ii) any clinical advice from PTAC or its relevant sub-committee(s);

(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, indeed, 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 of the product included in your proposal (and if you intend supplying this in a different form from that sample, information about the form in

which it would 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 sub-committee(s) 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 tacrolimus 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 and relevant summary bioequivalence information suppliers have prepared intended for clinician audience, 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 December 2010;

(ii) negotiating with submitter(s) of one or more preferred proposals in January 2011;

(iii) consulting on a provisional agreement in January/February 2011;

(iv) PHARMAC's Board or Chief Executive considering this provisional agreement in or after February 2011,

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 1 April 2011.

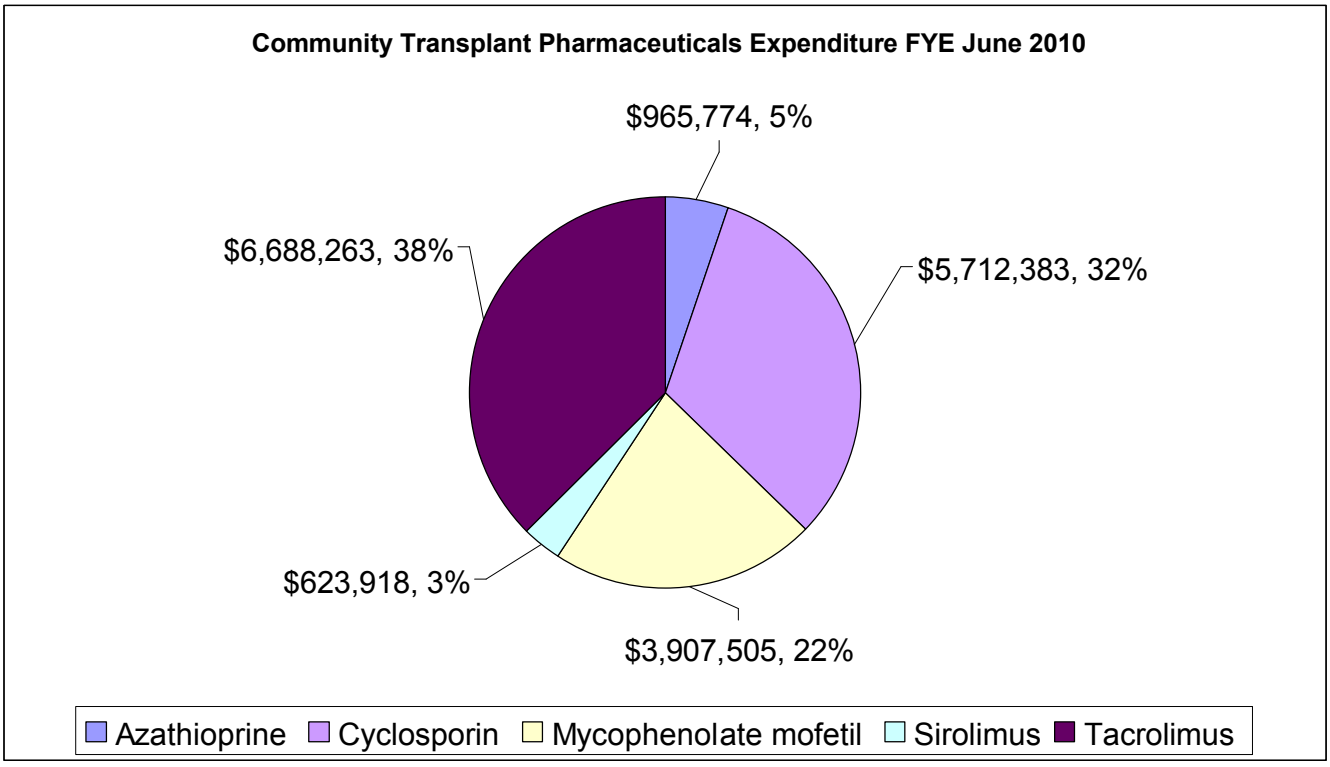
**Schedule 3: Current listing and market information**

The following information relates to the estimated subsidised market size of tacrolimus. 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 tacrolimus 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. PHARMAC is not obliged to notify you in the event of any change to the figures below.

The following table details the number of patient year equivalents and community prescriptions for transplant products in the Year ending June 2010.

| | Patient year Equivalents | Prescriptions |
|---|---|---|
| Azathioprine | 4,584 | 20,889 |
| Cyclosporin | 1,970 | 10,256 |
| Mycophenolate mofetil | 942 | 4,574 |
| Tacrolimus | 1,085 | 5,498 |
| Sirolimus | 78 | 368 |
| **Total** | **8,659** | **41,585** |

Expenditure in the community on transplant products was approximately $18 million for the year ending June 2010. The largest share of expenditure in this group is on tacrolimus as follows:



The table below shows annual community subsidised units and expenditure over the past 5 years. Note that these figures do not include DHB hospital expenditure on tacrolimus.

| | FYE June | | | | | |
|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| **Units**[1] | | | | | | |
| Cap 0.5 mg | 46,992 | 77,977 | 102,725 | 118,468 | 136,191 | 165,994 |
| Cap 1 mg | 799,224 | 875,621 | 912,718 | 986,842 | 1,086,239 | 1,182,195 |
| Cap 5 mg | 46,682 | 53,101 | 51,543 | 51,023 | 61,369 | 59,497 |
| **Expenditure (gross)** | | | | | | |
| Cap 0.5 mg | $103,740 | $166,873 | $219,834 | $253,524 | $291,452 | $355,231 |
| Cap 1 mg | $3,541,546 | $3,747,658 | $3,906,434 | $4,223,685 | $4,649,104 | $5,059,796 |
| Cap 5 mg | $1,035,239 | $1,136,361 | $1,103,020 | $1,091,892 | $1,313,297 | $1,273,236 |

Notes: 1 unit = 1 capsule

In addition DHB hospitals spend approximately $500,000 per annum on tacrolimus capsules and use approximately 600 ampoules of tacrolimus, 5 mg/mL, per annum.

**Schedule 4: Proposal form**

***An electronic version of this form is available on request from jackie.evans@pharmac.govt.nz.***

***You should expand the boxes as necessary.***

**[*Supplier to insert date*]**

Chief Executive
C/- Jackie Evans
PHARMAC
PO Box 10-254
(or for courier delivery:
Level 9
40 Mercer Street)
Wellington 6011
New Zealand

Dear Sir/Madam

**Proposal for the supply of Tacrolimus**

In response to your request for proposals (**RFP**) dated 16 November 2010, we put forward the following proposal in respect of tacrolimus.

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(s):

| | |
|---|---|
| Chemical name | |
| Strength [(e.g. 0.5 mg)] | |
| Form [(e.g. capsule)] | |
| Brand name | |
| Pack size [(e.g. 100's)] | |
| Packaging type [(e.g. blister)] | |

(c) Key features of our proposal:

| |
|---|
| |

(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.):

| |
|---|
| |

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

| | |
|---|---|
| Date of market approval (please attach copy of Medsafe Gazette notice) | |
| **OR** Date of submission of dossier (please attach confirmation from Medsafe that dossier has been submitted)] | |
| **OR** Expected date of dossier submission to Medsafe] | |
| ***Insert any other consents required for pharmaceutical*** | |

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

| |
|---|
| |

(g) Information about our previous New Zealand or International supply performance and relevant expertise:

| |
|---|
| |

(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) Summary bioequivalence information if applicable (may be provided separately)

| |
|---|
| |

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

| |
|---|
| |

## *Transplant and Immunosuppressant Subcommittee minutes 16 March 2010*

**Tender for Sole Supply of Transplant Pharmaceuticals**

The Subcommittee noted several pharmaceuticals in the transplant therapeutic subgroup are either off patent or coming off patent in the near future and that some generic brands were available. The Subcommittee noted the registration process for generic medications in New Zealand.

The Subcommittee noted that azathioprine and tacrolimus were included in the 2009/10 Invitation to Tender (ITT). However, members noted that neither cyclosporin or mycophenolate mofetil were included in the 2009/10 ITT because PHARMAC had entered into Alternative Commercial Proposals for these pharmaceuticals, such that both the Cellcept brand of mycophenolate and the Neoral brand of cyclosporin have protection from subsidy reduction and delisting until June 2012. The Subcommittee noted that these arrangements did not prevent PHARMAC from listing generic brands of cyclosporin or mycophenolate in the Pharmaceutical Schedule.

The Subcommittee considered that there was no clinical reason not to list generic transplant medications. The Subcommittee reiterated its view there was no clinical reason not to award a sole supply tender for transplant medications, including those in the 2009/10 (ITT). The Subcommittee considered that there was no clinical issue with patients switching between different brands of transplant medications with the exception of cyclosporin. The Subcommittee reiterated its view that that any generic cyclosporin should be based on a microemulsion formulation, but also noted that different brands of microemulsion cyclosporin may have clinically significant pharmacokinetic variability which meant that switching between brands would have to be carefully managed, through increased therapeutic drug monitoring, which was not desirable.

The Subcommittee reviewed tender bids received for tacrolimus (0.5 mg capsule, 1 mg capsule, 5 mg capsule). The Subcommittee noted that no bids had been received for the 5 mg injection formulation of tacrolimus, however, members considered that this formulation was rarely used and therefore funding was not important. The Subcommittee also reviewed relevant letters received in October 2009 in response to consultation on the draft 2009/10 ITT.

The Subcommittee considered that there was no clinical reason not to award a sole supply tender for tacrolimus or azathioprine. However, because of pharmacokinetic variability, members considered that a brand switch for tacrolimus may require that patients undertake a clinic visit for therapeutic drug monitoring and potential dose adjustment. The Subcommittee **recommended** that PTAC review bioequivalence data for relevant generic brand(s) of tacrolimus before a sole supply tender is awarded. The Subcommittee also considered that, if available, information regarding international market experience and/or literature for relevant generic brand(s) of tacrolimus should also be reviewed by PTAC.

## *PTAC meeting 6 & 7 May 2010*

**Tacrolimus tender bids**

The Committee reviewed a paper from PHARMAC staff in relation to the outstanding tender for tacrolimus 0.5 mg, 1 mg and 5 mg capsules.

Members noted that the issue of generic forms of tacrolimus had been considered by the Transplant Immunosuppressant Subcommittee and the Tender Medical Evaluation Subcommittee, and that the Subcommittees considered that there was no clinical reason not to award a tender for tacrolimus or to reference price between different brands of tacrolimus.

The Committee noted that information was supplied relating to the bioequivalence of the [

*withheld under the Official Information Act* ].
Members noted that the results of the supplied bioequivalence studies indicated that [ *withheld under the OIA* ] could be considered bioequivalent [ *withheld under the OIA* ].

The Committee noted that inter-individual variability of blood concentrations occurs with tacrolimus, and that monitoring of patients would be important following a switch [ *withheld under the OIA* ]; members noted that doses may need to be up-titrated or down-titrated as necessary, until stable therapeutic concentrations are re-established.

The Committee noted that a tacrolimus injection was not manufactured by [ *withheld under the OIA* ]. Members noted that the injection is a relatively low volume product, and that there would be no clinical issues with this being supplied by a different manufacturer.