

STRATFORD DISTRICT COUNCIL

POLICY: <u>PROCUREMENT</u>	
RESPONSIBILITY: Corporate Services	REVIEW DATE: 2018/19
VERSION: 5	APPROVED DATE: 11 June 2019 <i>Amendment approved 10/11/2020</i>
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PURPOSE – PROCUREMENT STRATEGY

This Procurement Policy has been developed for use by council officers, current and potential suppliers, elected members, ratepayers and government funding agencies, and applies to all procurement, regardless of the value.

The purpose of this policy is to ensure Council, when procuring goods, works or services:

- achieves the right outcomes and value for money;
 - manages risk effectively;
 - allows council officers to exercise business judgement by enabling flexibility and fluid, innovative approaches to procurement;
 - demonstrates fairness; and
 - has health and safety risk management at the forefront.
1. This policy shall not be applied to invalidate New Zealand Transport Agency’s Procurement Manual when applied to roads maintenance and construction.
 2. All council officers involved in procurement procedures are required to maintain confidentiality throughout, and of, the process.
 3. Council, as a public entity, must act fairly and consistently, and in accordance with relevant legislation.
 4. Tender processes can be a costly and lengthy exercise for everyone involved. Council has a responsibility to ensure the process is efficient and transparent (while keeping third party details confidential).

Stratford District Council Procurement Principles are:

- Value for money - where the projected whole-of-life cost is more important than the upfront quoted price.
- Procure for outcomes - planning and monitoring are key to successful outcomes.
- One-up principle for authorisation of all expenditure.
- Expenditure must be justifiable and be able to withstand public scrutiny.
- Local procurement is sought where practical.

DEFINITIONS OF TERMS USED IN THIS POLICY

Council Officer – Any employee of the Stratford District Council whether fixed term, part-time, or permanent, or a contractor working on behalf of the Council.

Expenditure – Includes the purchase of goods and/or services but does not include the payment of borrowings and interest or any tax and rate payments.

High Risk Procurement – Any procurement activity that could lead to or in some way contribute to the triggering of a risk incident in relation to one or more of the Stratford District Council's top ten risks as per the Council's Risk Register.

Local – Operating within the official Stratford district mesh block boundaries.

One-up Principle – Expenditure incurred by a Council Officer is authorised by a more senior officer.

Procurement - Procurement is concerned with the buying of all of the goods, services, and physical works that are vital to Stratford District Council's operations. Procurement involves the process of selecting suppliers, strategic vetting, the negotiation of contracts, and all aspects of purchasing.

Procurement Value – Annual monetary value for operating expenditure, and total contract value for capital expenditure.

Tender Evaluation Team (TET) – The team of council officers (2-4) who evaluate incoming tenders in accordance with the conditions of tender to recommend the best Tenderer.

Value for Money – For the purposes of this policy, value includes meeting specific functional criteria as well as any other relevant objectives including health and safety and community benefits. The value offered is evaluated against the whole-of-life cost of entering into the contract. There may be situations where value for money is broadened to include outcomes such as economic, social, cultural, and environmental effects on the district's communities.

Whole-of-life Cost - The total cost of procurement including maintenance, disposal, and replacement costs, it may also include opportunity costs.

JUSTIFICATION OF EXPENDITURE

Council expenditure is subject to scrutiny by elected members and the general public. Throughout all Council procurement activities, officers must keep in mind that expenditure incurred by Council is mainly funded by ratepayers. All expenditure must be:

1. For a business purpose approved either through the LTP/Annual Plan process, or specifically approved by the Council and,
2. Compliant with all of Stratford District Council's various policies.

At all times, officers should seek market rates and favourable payment terms for Council ratepayers.

HEALTH AND SAFETY IN PROCUREMENT

The Stratford District Council has a legislative responsibility to actively manage the health and safety risk of all council officers, including contractor's and sub-contractor's workers.

Risk management processes

1. Council purchasing officers must identify potential health and safety risks at the procurement planning phase, prior to seeking quotes or tenders.

2. Health and safety risk management will be incorporated into a Contractor's Tender. All public works contracts must include a section on Health and Safety.
3. No contractor doing any form of physical works is to be used by council officers for any physical works or physical services unless they have been pre-approved by the Health and Safety Manager in accordance with the pre-qualification process in the *Pre-Qualified Contractor Manual*.
4. Refer to the Council's Health and Safety Policy for further information on the Council's response to Health and Safety risks.

PREFERRED SUPPLIERS

The Council may, from time to time, establish direct relationships with suppliers to procure goods and services at a lower than market rate, or at an agreed level of service. This is intended to achieve value for money by consolidating spend and reducing the cost of business through reduced transactions and a reduced number of suppliers.

These suppliers will be listed on the *Preferred Suppliers Register*, following Director or CEO approval. They should be used in the first instance for the specified spend category, e.g. painting, legal, catering, accommodation etc.

An exemption from using a preferred supplier may be sought on the grounds of better value for money. This should be raised with the Director-Corporate Services, AND approved by a Director.

AUTHORITY TO PROCURE GOODS AND SERVICES

All expenditure must be made within the adopted annual budget (Annual Plan or Long Term Plan), or specifically approved by council, and within delegated authorities. Refer to Appendix 1: *Schedule of Financial Delegations*, and the *Delegations Policy*.

At least two council officers must be involved in the procurement of all goods and services, regardless of the value. The purchasing officer, as the procurer, is involved in developing the scope and design of what good and/or service is required, and the authorising officer (senior to the purchasing officer) will ensure the purchase complies with the *Procurement Policy*, where the expenditure is within their financial delegated authority.

In the case of expenditure by the Mayor, this will be approved by two Directors of the Council, and quarterly reviewed by the chair of the Audit and Risk Committee.

Purchase Orders will not be required for any expenditure that has been approved as an exception. Refer to Appendix 2: *Schedule of Purchase Order Exceptions*. The Purchase Order must be approved before the purchasing officer can proceed with requesting delivery of the good or service.

The requirement for quotes, outlined below, may be waived where an existing maintenance Contractor has the capacity and ability to carry out physical works that are outside of the scope of the existing contract.

- **\$20,000 to \$100,000**

All goods and services with a potential procurement value over \$20,000 are to be purchased with a written contract or Purchase Order. At least three written quotes or written quotes from all available suppliers should be obtained unless the purchase is for specialised goods/services where there is a limited market, WITH an exemption from a Director or the CEO.

- **\$5,000 to \$20,000**

Where the proposed procurement value is between \$5,000 and \$20,000, at least two written quotes must be obtained and a Purchase Order must be used.

- **< \$5,000**

There are no formal procedures for procurement with a value of less than \$5,000 but council officers are to ensure preferred suppliers are used, where applicable, and a Purchase Order is raised.

- **< \$50**

Petty cash is to be used when money is needed in advance for purchases of less than \$50. A petty cash form must be completed and authorised prior to receiving the cash, and receipt/s or tax invoice/s must be provided to the Petty Cash officer as soon as practicable after the expenditure has been incurred. Alternatively, a Purchase Order must be raised.

COMPETITIVE TENDERING

The following competitive tendering procedure may be used regardless of the procurement value. However, thought must be given to the value of working through such a process for lower value procurement contracts.

Publically advertised competitive tender process

- **> \$100,000**

Any expenditure with a procurement value over \$100,000 must go through the formal public tendering process that is detailed in the *Procurement Manual*.

1. The Procurement Plan will establish the business need, and the design, scope and budget for the project.
2. All contract arrangements will need to be formal, with a single point of contact established for answering enquiries for each tender.
3. All tenderers will be provided with the same information at the same time.
4. A Request For Tender (RFT) is required. An RFT is a formal means of seeking tenders to provide goods and services where there are clearly defined requirements with little room for flexibility or innovation.
5. The range of criteria that may be considered in the evaluation of tenders are:
 - company track record;
 - experience of personnel;
 - health and safety;
 - price; and
 - other criteria (such as sustainability) that may be relevant to the procurement.
6. No late tenders will be accepted.

7. All contracts awarded with a procurement value over \$500,000 must be reported to the Policy and Services Committee.

EXCEPTIONS TO THE COMPETITIVE TENDER PROCESS

Exceptions to the competitive tender process enable increased flexibility and innovation when procuring, and align with the purpose of this policy. Exceptions applied to contracts with a potential procurement value over \$500,000 must be approved by the Policy and Services Committee.

All of Government Contracts

Council officers will not be required to undergo a competitive tender process if Council is part of an All of Government contract, as Council accepts that the Government has already undertaken a robust tender process.

Contract Rollovers

In some situations, where a procurement contract is expiring with no further renewals, the supplier may offer continued pricing and/or service levels if the contract is renewed. If the Council Officer managing the contract is satisfied with the goods and/or services supplied throughout the term of the maturing contract and it is not cost-effective to go through a competitive tender process, then the procurement may be excluded from going through the process. Approval from the Chief Executive is required prior to proceeding, notwithstanding a contract may not be rolled over for a term exceeding the initial contract term (excluding renewals).

Emergency Procurement

In an emergency it may be necessary to dispense with parts of the *Procurement Policy* so that the Council can react quickly to unforeseen events. For the purposes of this policy, an emergency is defined as an event that puts life or public health or safety at risk, or could lead to devastating consequences for the Stratford District Council if not acted upon immediately.

Monopoly

Where there is a monopoly situation and only one supplier capable of supplying the business need, the supplier shall be used without the need to obtain more than quote. Attempts should always be made to establish whether there are any alternative potential suppliers. Approval to continue with the procurement needs to be obtained from the Chief Executive Officer.

Specialist Consultants

Where specialist equipment is to be maintained or serviced or specialist advice is required, the internal process will be same as *Monopoly* above. Specialist in this context means someone that is highly skilled in a specific and restricted field.

Regional / Shared Services

This exception specifically relates to joint efforts with other councils to collaborate in an attempt to achieve better procurement outcomes. In these situations it is accepted that a robust and appropriate procurement process would have been worked through.

CONFLICTS OF INTEREST

A conflict of interest occurs when someone who is involved in multiple interests - one of which could corrupt the motivation for an act in the other. This would make it difficult for that person to fulfil their duties fairly. Conflicts of interest may occur in cases of:

- professional or personal obligations;
- personal interests; and/or
- financial interests.

Conflicts of interest can arise at any time during the contracting process, but the most common occur during the planning and invitation to tender stages when people are able to influence the requirements, the evaluation criteria, or the way that the selection is made.

Managing conflicts of interest

All TET members are required to complete the *Declaration Regarding Any Conflict of Interest* document. Should any member indicate a conflict with any of the tenderers the process needs to be halted while the CEO or relevant Director makes a determination on whether the panel member should be replaced.

A conflict of interest register is held by the CEO office for all the Senior Leadership Team. No Director should authorise any contract to which they have a direct or indirect personal interest in. The CEO shall make the final call on whether there is a conflict of interest and remove that Director from the process if necessary.

It is important to avoid any suggestion of potential bribe or inducement arising from the acceptance of gifts to staff from companies or individuals. Staff should exercise judgment and consider the Procurement Principles when accepting gifts in connection with their council officer role, particularly where it could be perceived to influence a procurement decision.

Staff must disclose details of any gift accepted with a value of over \$50, in all cases, to their Director or to the CEO (if a Director).

No council officer directly involved on the TET should receive any personal benefit from their role as a panel member.

A personal gift of cash of any amount, and in any form ie cash, direct credit, loan, must never be accepted by any staff member.

CONTRACTS WITH ELECTED MEMBERS

An elected member is liable to disqualification from the Council if involved in, either directly or through a spouse or partner, contracts with Council in which payments to the associated entity exceeds \$25,000 in any financial year, without prior written approval from the Auditor-General.

While compliance is entirely the responsibility of the elected member, should staff become aware of a potential breach of their requirement, the matter should at once be reported to the Chief Executive.

LOCAL PROCUREMENT POLICY

The principles of the local procurement policy are:

- To promote local economic sustainability and growth;
- To encourage business activity by local rate paying firms, where they are competitive suppliers in respect of price and quality; and
- Minimise transport costs and their environmental effects through measures which provide for Council to buy from local sources where competitive.

To acknowledge the potential reduction in transport costs and the environmental benefits of 'buying local' in applying the local procurement policy, a local provider will be allowed a 5% bias of the lowest conforming tender price, with a maximum bias of \$50,000.

Where NZTA funding is involved in roading related work, the local procurement policy does not apply.

SUSTAINABILITY

Council has a commitment to sustainability and environmental protection. Where cost-effective and legal this will be pursued by promoting purchasing practices which conserve water resources, demonstrate energy efficiency, minimise waste, have low toxicity and/or will protect the environment and public health, and maintain environmental safety and quality.

Consideration of any sustainability requirements should be made at the procurement planning phase. The competitive tendering process may include a criteria weighting for sustainability and environment protection. This will be decided by the Tender Evaluation Team. If sustainability objectives are a desired outcome of the procurement activity then they should be included in the RFT.

RISK MANAGEMENT IN PROCUREMENT

Procurement is a major activity for local government organisations and involves significant sums of money for the Council. It spans across all areas of the organisation and most council officers are involved in Procurement activities in some way or another. The consequences of failing to follow a robust policy and framework can be significant in terms of the potential financial implications, reputational damage, political scrutiny, and reduced Council performance.

There are important areas throughout each of the phases of Procurement that must be addressed in order to reduce the impact or likelihood of a risk incident. Each of these phases are addressed in further detail in the *Procurement Manual*.

Planning the Procurement – Phase 1

- Document business needs and reason/s for the procurement (Business Case usually done as part of preparation for Long Term Plan / Annual Plan).
- Develop detailed scope and design of the procurement project (Procurement Plan).
- Identify health and safety risks.

- Consideration of alternative business models such as public/private partnerships, government schemes, social enterprise delivery, and potential alternative funding sources.
- Identify desired outcomes.

Engaging with the Market – Phase 2

- Ensure the approach to the market is fair and accessible, acknowledging that it is the perception of openness and fairness that matters.
- Develop a set of criteria and appropriate weightings based on the risk, complexity and nature of the work required.
- Consider the benefits of using alternative approaches such as shortlisting, requesting expressions of interest / RFI, or invitation only tenders where appropriate.
- The selection process should be fair and objective with any conflicts of interest declared prior to the appointment of the TET.
- Due diligence to be carried out on prospective suppliers.
- Ensure retention, dispute-resolution, confidentiality, contractor insurance and security clauses are incorporated into public works contracts.
- Draft contract for High Risk Procurement should be independently reviewed by a legal professional and the Health and Safety Manager before signing.

Review and Monitoring – Phase 3

- Regular and timely reporting provided by contractor on specific key contractual obligations and updated in Authority contract management system.
- Implement regular performance reviews, meetings.
- Retentions held until specific performance criteria met as per Contract Schedule.
- All records, minutes, and relevant communications between contractor and council officers to be filed in Content Manager.
- Internal audit programme to review Council Officer compliance with the *Procurement Policy* and *Procurement Manual*.
- Implement regular staff training on Council's *Procurement Policy*, *Procurement Manual*, and *Pre-Qualified Contractor Manual*.

The documentation that is to remain on file is listed in the *Procurement Manual*.

Council must also adhere to any requirements to consult with affected parties, and obtain appropriate consents.

Physical works contracts will not provide for contractor indemnities, advance payments, principal bonds and guarantees, variable pricing, and other high-risk methods of engagement in favour of the contractor, unless approved in writing by the Chief Executive Officer.

RELATED DOCUMENTS

Pre-Qualified Contractor Booklet	D18/29593
Procurement Manual	D16/2600
Schedule of Purchase Order Exceptions	D18/29594
Delegations Policy	D17/7725
Declaration Regarding Any Conflict of Interest (Tender Evaluation Team)	D13/18692
Procurement Plan – Long Form	D17/800

RELEVANT LEGISLATION

- Construction Contracts Act 2002
- Contract and Commercial Law Act 2017
- Consumer Guarantees Act 1993
- Land Transport Management Act 2003
- Public Bodies Contracts Act 1959
- Local Government Act 2002
- Public Records Act 2005
- Health and Safety at Work 2015
- Local Authorities (Members' Interest) Act 1968

INDUSTRY CONTRACT STANDARDS AND GUIDELINES

- NZS 3910: 2013 Conditions of contract for building and engineering construction
- NZS 3916: 2013 Conditions of contract for building and civil engineering – design
- NZS 3917: 2013 Conditions of contract for building and civil engineering – fixed term
- IPENZ standard contract conditions
- NZ Institute of Architects Standard Conditions of Contract

This policy will be reviewed at least every three years.

SCHEDULE OF FINANCIAL DELEGATIONS

Financial Authority (annual value for operating and total value for capital)	Delegated Authority	Process Requirement (see Procurement Manual)	Method of Engagement (pre-purchase)	Reporting Requirements
Exceeds Annual Plan/LTP Activity Budget by more than \$100,000 (net of any grant funding)	Council	Decision Report to Policy and Services Committee	N/A	Decision Report
Exceeds Annual Plan/LTP Activity Budget by more than the lesser of: 10% or \$50,000	CEO	Confirmation from CEO required - via Business Case	N/A	Monthly Reporting
> \$250,000	CEO and one Director*	Publicly advertised competitive process required, unless an Exception approved by the Policy and Services Committee.	Written Contract	Award of the contract must be reported to the next Policy and Services Committee meeting.
\$100,000 to \$250,000	Director	Publicly advertised competitive process required, unless an Exception approved by the Chief Executive.	Written Contract	As required by Chief Executive
\$20,000 to \$99,999	Within Delegated Authority	At least 3 written quotes or written quotes from all available suppliers if less than 3 unless for specialised goods/services WITH an exemption from a Director.	Purchase Order / Written Contract	None
\$5,000 to \$19,999	Within Delegated Authority	At least 2 written quotes obtained where there is an alternative competitor. Officers to ensure prices do not exceed market rates and/or preferred suppliers are used.	Purchase Order	None
\$50 to \$4,999	Within Delegated Authority	No formal procedures but officers to ensure prices do not exceed market rates and preferred suppliers are used.	Purchase Order	None
< \$50		Purchase order to be used where there is already a supplier account or Petty Cash reimbursement if there is no supplier account.	No specific requirements.	

*Contract / progress payments over \$250,000 may be signed off by contract manager and authorised by a Director.