

POLICY ON PROCUREMENT

Adopted by Council
23 August 2018

Record of Amendments

| Date Amended | Amendment | Clause | Page Reference |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|
| 23.08.18 | Procurement Policy Adopted by Council on 23.08.19. Council resolved to adopt the Procurement Policy subject to clarification of the amounts listed in the policy. | | |
| 24.08.18 | Follow-up to Council Meeting, two amounts amended from \$5,000 to \$10,000 – first and second paragraphs. | 10.6 b) | 9 |
| 24.08.18 | Follow-up to Council Meeting, one amount amended from \$5,000 to \$10,000. | 10.12 b) | 15 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

POLICY ON PROCUREMENT

1. INTRODUCTION

- 1.1 This document covers the policy for procurement of all works, goods or services by Westland District Council having regard to budget provisions in the Ten Year Plan/Annual Plan or by specific resolution of Council.

2. POLICY APPLIES TO

- 2.1 In addition to this document, the following documents set out the policies, rules and procedures relating to the WDC Procurement Strategy

3. POLICY STATEMENT

- 3.1 Council will carry out the procurement of works, goods and services in a manner that will support Council's community outcomes, agreed levels of service, organisational goals, strategic challenges and its values.

Council will procure works, goods or services in accordance with the following principles:

- Accountability

Council will be accountable for its performance and be able to give complete and accurate accounts of the use it has put public funds to.

- Openness

Council will be transparent in its administration of funds, both to support accountability and to promote clarity and shared understanding of respective roles and obligations.

- Value for money

Council will use resources effectively, efficiently, economically and without waste, with due regard for the total costs and benefits of an arrangement, and its contribution to the outcomes Council is trying to achieve. The principle of value for money for procuring goods or services does not necessarily mean selecting the lowest price but rather the best possible outcome for the total cost of ownership (or whole-of-life cost).

- Lawfulness

Council must act within the law and meet its legal obligations.

- Fairness

Council has a general public law obligation to act fairly and reasonably. It must be, and must be seen to be, impartial in its decision-making.

- Integrity

Anyone who is managing public resources must do so with the utmost integrity.

4. APPLICATION

- 4.1 The policy is intended to provide guidance for all staff (and others) who have delegated authority for procurement. It also applies to the considerations by Council, in its governance role, for funding, procurement and purchasing decisions.

Procurement of works, goods or services valued between \$10,000 and \$50,000 (GST exclusive) requires (wherever possible) three written quotes.

Procurement of works, goods or services valued over \$50,000 (GST exclusive) will be subject to a competitive procurement process and the type of process will take into account the level of risk and the type of works, goods or services to be procured. Competitive processes are set out in more detail in the operational guidelines and include seeking quotes or using a tender or proposal process.

It is noted that in the area of roading and transport procurement where there is New Zealand Transport Agency (NZTA) assisted funding, then Council must follow the NZTA Procurement Manual, both for physical works and professional services.

5. BACKGROUND

The provision of products, services and works by Council suppliers is essential for the delivery of key infrastructure and services to the community. Therefore an effective procurement function can make a significant contribution to the following community outcomes:

- A thriving and diverse local economy
- Sustainable natural and built environment
- An involved community with quality leadership

This policy is part of a procurement framework that guides and assists all procurement activity carried out by Council. The procurement framework includes, but is not limited to:

- Procurement policy (this document): The principles that govern all procurement activity.

- Standard procurement procedures: The processes that must be carried out in a certain way.
- Standard procurement templates: Standard documents that must be used for procurement work.
- Procurement guidelines: Guidance for different procurement activities where there is more flexibility and discretion that may be applied, or where standard procedures are not appropriate.

6. RELATED DOCUMENTS

6.1 Council policies and strategies:

WDC Delegations Manual, WDC Procurement Strategy.

6.2 Relevant legislation includes but is not limited to:

Commerce Act 1986, Sale of Goods Act 1908, Fair Trading Act 1986, Consumer Guarantees Act 1993, Health and Safety in Employment Act 1992, Public Finance Act 1989, Financial Reporting Act 1993, Privacy Act 1993, Official Information Act 1982, Local Government Official Information and Meetings Act 1987, Local Government Act 2002, Building Act 2004, Resource Management Act 1991, Land Transport Management Act 2005, Electronic Transactions Act 2002, Records Act 2005, Public Audit Act 2001; Construction Contracts Amendment Act 2015.

6.3 Central Government guidelines, include but are not limited to:

- Ministry of Business, Innovation and Employment, April 2013, Government Rules of Sourcing, Rules of Planning your Procurement, Approaching the Market and Contracting, www.procurement.govt.nz;
- Office of the Auditor General, June 2008, Procurement Guidance for Public Entities www.oag.govt.nz;
- Office of the Auditor General, June 2007, Guidance for Members of Local Authorities on the Law of Conflicts of Interest;
- Office of the Auditor General, June 2007, Managing Conflicts of Interest: Guidance for Public Entities;
- New Zealand Government Procurement web-site, guidelines on Sustainable Procurement www.business.govt.nz/procurement

6.4 Industry standards and guidelines include but are not limited to:

- NZS 3910: 2013 Conditions of contract for building and engineering construction;
- NZS 3915:2005 Conditions of contract for building and civil engineering construction (where no person is appointed to act as engineer to the contract);
- IPENZ standard contract conditions;
- NZ Institute of Architects Standard Conditions of Contract.
- NZ 3916-2013 NZS 3910: 2013 Conditions of contract for building and civil engineering –design
- 3917-2013 Conditions of contract for building and civil engineering – fixed term.

7. POLICY OBJECTIVES

1. To ensure purchasing decisions are consistent, transparent, fair and lawful.
2. To deliver procurement outcomes that meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
3. To ensure products, services and works are fit for purpose and are bought using commercially astute and appropriate processes.
4. Support sound environmental procurement and sustainability where feasible to do so.

8. POLICY PRINCIPLES

These principles underpin the intent and implementation of this procurement policy:

- Free from bias and real and/or perceived conflicts of interest.
- Deliver best value for money over the whole life of the goods, service or asset.
- Deliver fit for purpose solutions to meet operational and business needs.
- Ensure purchases are made in an open, fair, transparent and accountable manner.
- Appropriately manage risks associated with procurement processes.
- Promote open and effective competition between capable suppliers.
- Promote efficient purchasing practices and minimise procurement costs.
- Ensure Council's purchasing activities are managed in accordance with its statutory and legal responsibilities.
- Promote Council's commitment to sustainability and environmental protection. This will be pursued by promoting, where legally possible to do so, purchasing practices which conserve resources, save energy, minimise waste, and will protect

the environment and human health whilst maintaining environmental safety and quality.

- Ensure local suppliers have the opportunity to compete for Council business.

9. DEFINITIONS

- **Emergency Procurement:** means Procurement required as part of the response to a sudden unforeseen event, where life, health, property or equipment is at immediate risk, or in order to maintain Council's service delivery to the community.
- **Procurement:** All of the business processes associated with purchasing, from the identification of needs to the end of a contract or the end of the useful life and subsequent disposal of an asset. Procurement starts with identifying a need and planning how to proceed. It includes the specification and sourcing of products or services, negotiation and contracting, the management of supply arrangements, and it finishes with the disposal of products or when the service contracts or agreements come to an end.
- **Value for Money:** Using resources effectively and economically, with due regard for the total costs and benefits of an arrangement, and its contribution to the target outcomes to achieve the most cost-effective outcome for households and businesses. This does not necessarily mean the lowest price, but is the best possible outcome for the whole-of-life cost.
- **Business Case:** Provides the reasoning for undertaking a new project or service. A business case will include background information, the expected benefits of the project, options considered, expected costs, resources required and an analysis of potential risks. The requirement for submitting a business case is usually met by:
 - Long Term Plan or Annual Plan budget processes; or
 - Council or committee reporting.

10. POLICY STATEMENT

10.1 Scope

This Procurement Policy applies to all supply arrangements of any value for products, services or works, procured by or on behalf of Council.

This Procurement Policy states the procurement principles of the Council, and aims to:

- Inform Council staff, and those acting on behalf of the Council, of the objectives, behaviours and principles appropriate when conducting procurement;
- Encourage a common understanding and consistent management practice across the organisation to realise procurement-related benefits;
- Promote transparency in how the Council manages its procurement;
- Ensure procurement practices are always consistent with legislation; and,
- Provide a framework for common understanding of Council procurement practices for potential vendors.

This policy does not apply to the following activities:

- The employment of staff (excluding the engagement of contractors and consultants to supply services);
- The acquisition or lease of land or buildings (excluding the design, construction or refurbishment of buildings);
- Disposals and sales of Council assets;
- Investments, loans, guarantees, or other financial instruments;
- Gifts, donations and grants;
- Licences and agreements regarding commercial operations carried out by third parties (traders) on Council property;
- Non-contractual agreements between public sector agencies, such as memorandums of understanding; and,
- Statutory or ministerial appointments.

10.2 Procurement Planning

- Council will ensure that procurement processes are well conceived and implemented, the right people have been involved at the right time, and risks have been identified and managed.
- Council recognises that poor procurement planning can compromise the efficiency and effectiveness of its procurement process and this typically impacts both Council and suppliers.
- Council shall ensure that adequate preparation has been made prior to market engagement to ensure that its requirements and procurement processes are clear, and that significant expenditure is budgeted in the applicable Annual Plan or Long Term Plans. The extent and nature of procurement planning will be proportionate to the total value, complexity and risks associated with the procurement.

- Purchases should only be made when there is an approved budget, and if the purchase is within delegated financial authority. Any alterations to the purpose of a budget must be considered by Council.
- For significant capital or non-recurring expenditure, a business case should be prepared to support the need for procurement. A business case will usually be prepared and presented to Council as part of the Long Term Plan and/or Annual Plan budget process. The level of detail and analysis in a business case will be proportionate to the value and associated risk of the individual procurement.

10.3 Purchase Orders

A purchase order must be raised for all goods and services prior to purchase. When the total value of a contract is known, a purchase order should be raised for the full amount (including disbursements). Suppliers should include the purchase order number on all invoices relating to that contract.

10.4 Contract Requirements

Any contractual relationship undertaken by Council must meet industry standards, guidelines and best practice, as well as any applicable third party requirements.

10.5 Late Responses

Late tenders or quotations will not be accepted, unless there are exceptional circumstances that have been provided for in the original request for quote, tender or proposal. Late responses must not be accepted if the supplier may have knowledge of the content of any other response or if it would be unfair to any other supplier to accept the late response.

10.6 Procurement Methods

a) Minor Expenditure

Verbal quotes can be used for purchasing goods and services when the transaction value is less than \$1,000. This is an efficient way to explore the market and determine availability and price. Records must be kept of evaluation and decision, proportionate to the value and risk of the individual procurement.

Council may purchase directly from a supplier for purchases less than \$5,000 when the cost of seeking quotes or tenders would be impractical, or disproportionate to the benefits obtained.

b) Moderate Expenditure

Written quotes must be used for expenditure above \$10,000 but below \$50,000. Three quotes should be sourced. All quotes must be sought with identical specifications and work scope and have a set closing date and time. Records must be kept of evaluation and decision, proportionate to the value and risk of the individual procurement.

Council may purchase directly from a supplier for purchases above \$10,000 and below \$50,000 when:

- the required goods or services are available from only one supplier or provider;
- the services required are specialist technical or professional services;
- standardisation or compatibility with existing equipment or services is necessary or desirable;
- Council is part of a joint procurement process - see 6(f);
- no acceptable responses were received through open competition for the same core requirements, carried out within the last 12 months; or,
- the products, services or works are an addition to, and necessary for the complete delivery of an existing supply arrangement, provided that the original supply arrangement was openly advertised and a change of supplier cannot be made for economic, technical or practical reasons.

Approval to procure without three written quotes must be recorded in writing by the appropriate delegated authority.

c) Significant Expenditure

Where the value of goods or works proposed to be purchased exceeds \$50,000, an open request for tenders must be issued (unless the exceptions set out below apply), which contains all of the information that suppliers need to prepare and submit a tender.

A detailed description of the goods or services being procured, key timeframes, required service levels, the procurement method and evaluation process must be available. If evaluation criteria are being

used, an indication of the relative importance of each criterion must also be provided.

A closed tender process, where a pre-qualified list of suppliers is invited to provide a tender, can only be used in the following circumstances:

- the goods or service are only available from a few suppliers;
- the services required are specialist technical or professional services;
- it is not practical or cost-effective to conduct an open tender or proposal;
- Council is part of a joint procurement process - see 10.6(f);
- there is limited time for the procurement process;
- no acceptable responses were received through open competition for the same core requirements, carried out within the last 12 months; or,
- the products, services or works are an addition to, and necessary for the complete delivery of an existing supply arrangement, provided that the original supply arrangement was openly advertised and a change of supplier cannot be made for economic, technical or practical reasons.

Procurement over \$50,000 which is not subject to an open tender process must be approved in writing by the Chief Executive. Procurement which is valued above the Chief Executive's delegated authority and is not subject to an open tender process must be approved by Council.

d) Multi-stage Procurement

An Expression of Interest (EOI) can be used to shortlist potential suppliers before seeking detailed bids from the shortlisted tenderers. An EOI is generally used when the information required from tenderers is specific but Council is unsure of the capability of suppliers to provide the required goods and services.

A Request for Proposal can be a single or a multi-staged process and is used when the project or requirement has been defined, but where an innovative or flexible solution is sought.

e) Emergency Procurement

In an emergency situation, it may be necessary to bypass some aspects of the normal procurement process. Circumstances that mandate Emergency Procurement will normally only be when:

- Life, property or equipment is immediately at risk; or,
- Standards of public health, welfare or safety need to be re-established without delay (such as disaster recovery)

Emergency procurement provisions should only be used in genuinely unforeseen circumstances.

Written records of all transactions must be kept at the time of order.

f) Collective Arrangements

Council may participate in collective buying schemes that offer value for money, such as All of Government supply contracts. In these circumstances, competitive procurement is undertaken by the group as a collective.

g) Standing Arrangements

Standing arrangements are procurement agreements where Council purchases goods or services directly from a provider for a fixed period of time. These can be either direct or established through open tendering. Council can set up standing arrangements after a competitive or negotiated process.

Standing arrangements can be a suitable procurement approach for goods or services that are high value but low risk. Examples include fuel, motor vehicles, air travel and stationery.

h) Petty Cash

Petty cash can be used when money is needed for small purchases under \$30. A receipt is required to validate the expenditure.

10.7 Value for Money and Whole of Life Costs

Council shall take into account the ever-present need to ensure it is getting the very best value for money in order to deliver the most cost-effective outcomes for households and businesses. This means using resources effectively and

economically, weighing up the total costs and benefits of a supply arrangement and the outcome achieved. It is important to note that the best possible value for money is not always the cheapest price.

The relative importance (and weighting) of cost compared to other selection criteria must always be closely scrutinised.

Where practicable, Council shall take into account the Whole of Life Costs rather than just the initial “up-front” cost. Typically this involves consideration of the cost of the initial purchase, plus implementation/transition, support and maintenance, operations, and end-of-life/disposal. From time to time other costs and benefits may also be relevant in the selection decision.

10.8 Sustainability

Council is committed to sustainability, striving to ensure the decisions and actions of today won't compromise what can be achieved in the future.

Sustainability will be considered at every stage in the procurement lifecycle, starting with planning and specifying requirements, then in market engagement, selection of products and/or suppliers, and contracting with suppliers.

Embedding sustainability principles into Council's entire procurement framework will assist Council to procure products, services and works that meet user's needs, deliver long term value for money, maximise social and economic benefits, and minimise damage to the environment.

Sustainability objectives for procurement include:

- Protecting human health;
- Promoting fair working conditions;
- Achieving local outcomes;
- Reducing soil, water and air pollution;
- Reducing energy consumption and climate change;
- Reducing water consumption;
- Reducing materials, packaging and waste; and,
- Protecting habitats and biodiversity.

10.9 Achieving local outcomes

Council will seek to achieve local outcomes through its procurement activity where appropriate to do so, provided that this does not introduce discrimination or compromise the best value for money. Typical examples of local outcomes are local employment, the utilisation of local resources, or local economic development.

Local outcomes may be achieved through:

- Local forums and other forms of supplier engagement to assist prospective suppliers to understand how to effectively compete for Council's business;
- Ensuring that procurement processes are not overly onerous or complicated;
- Considering potential commercial and practical advantages in purchasing locally produced products and services; and,
- Considering local outcomes when planning major procurement activities, packaging work for contracts, developing specifications and defining selection criteria.

All requests for verbal quotes, written quotes and closed tenders must include at least one local supplier, when there is a known supplier that offers the goods or services required.

10.10 Contract Extensions, Variations and Renewals

When the additional costs of a service or project are small in comparison to the costs of undertaking a discrete tender process, a contract extension or variation may be used.

When extension and variations are not specifically provided for within an existing contract, the extension or re-definition of a contract that increases the originally approved contract value must be approved by the Chief Executive. When the additional sum is beyond the delegated authority of the Chief Executive, the contract must be presented to Council for approval.

The refining of service delivery contracts to more closely reflect the amount of work required to maintain services does not need to be openly tendered, but can be managed directly by the appropriate Council officer.

10.11 Employee Responsibilities

- a) Delegations

All procurement activity must be carried out in accordance with the annual budget or specifically approved budgets, and within delegated authority.

Council contractors cannot make purchases or commit to spend on Council's behalf without prior authorisation.

b) Staff Purchasing

The use of Council funds for the purchase of items for personal use is prohibited unless authorized by the Chief Executive and reimbursed.

If staff purchase personal goods and services using discounts obtained through Council buying privileges schemes, the transaction must be paid for by the staff member personally.

c) Endorsement

Generally employees must not endorse any products or services. If an employee receives a request to endorse any product or service they must refer the request to the appropriate Group Manager.

Staff may, with the approval of their manager, act as referees for contractors or consultants who are bidding for external contracts.

d) Conflicts of Interest

Conflicts of interest may arise at any time during the procurement process. All employees must act in accordance with the Conflicts of Interest Policy and declare any real or potential conflicts of interest in writing to their manager.

e) Gifts, Hospitality

Any offers of gifts or hospitality from suppliers must be managed in accordance with the Staff Gifts and Hospitality Policy.

f) Confidentiality

All staff must maintain the confidentiality of a procurement process at all times.

10.12 Suppliers

a) Prequalified Suppliers

Council may assess suppliers of particular goods and/or services against predetermined criteria with no specific contract in mind. Suppliers successful in meeting these criteria will be maintained on a database.

Pre-qualification does not form a contractual or legal relationship between Council and any supplier. While preliminary standard criteria have been met, suppliers may be required to meet other evaluation and performance criteria as part of any specific procurement processes.

b) Notifying Unsuccessful Suppliers

Unsuccessful tenderers for all competitive procurement above \$10,000 should be notified as soon as practicable once a supplier has been selected.

Further information about the successful bid will be provided upon request, subject to the Local Government Official Information and Meetings Act 1987.

10.13 Records Management

Appropriate records of dealings with all suppliers should be kept. This should include details of:

- tender or other comparison processes and selection procedures, including procurement plans;
- copies of all agreements entered into, including purchase orders (this should be in electronic form);
- performance records, including any items under dispute; and,
- correspondence – including, but not limited to, notices, contract variations, contract extensions, and price change documentation.

11. REVIEW PROCESS

This policy will be reviewed in 3 years' time.

12. APPROVAL

This policy was reviewed and adopted by the Council on the 23 August 2018.