



Procurement Policy

Effective: 1 October 2016

Review Date: by 1 October 2019

Contact: Risk and Procurement Analyst

1. Background/Scope

- 1.1. This policy is to provide a standardised set of requirements to be met when purchasing all goods and services, including legal and other specialised professional services by, or on behalf of Nelson City Council (Council). It applies equally to the Council, all Council Officers including the Senior Leadership Team and all staff whether permanent or temporary, and to any contractors who make purchase agreements on behalf of Council. It does not apply to the recruitment or engagement of staff, or to the purchase of real estate.
- 1.2. Nothing in this policy shall be construed as applying to the disposal of assets or the disposal of property or land.
- 1.3. Dollar amounts used as triggers in this document are all GST exclusive.
- 1.4. This policy is not intended as a standalone document and is limited to stating what is required by Council. Explicitly it does not specify how procurement should be done. Users are strongly advised to follow the procedures set out in Council's procedure library when undertaking procurements for Council. In particular this policy makes reference to other criteria, policies and similar documents which are either in development or form part of other procedures. Specific references to these are provided in the procedures in the library.

2. Objectives

- 2.1. The objectives of this policy are:
 - a) to provide the best value from the total resources expended (including direct payments, staff time and other services such as legal advice) over the whole of each purchase process Council undertakes
 - b) to keep the risks associated with purchase within Council's risk criteria
 - c) to ensure purchases are made in an open and transparent manner with full and fair opportunity for all eligible suppliers
 - d) to enable Council's purchasing process to comply with the legislation governing Council's purchase of goods and service and in particular relevant sections of the Local Government Act 2002 (as amended).

3. Principles

- 3.1. All procurement within the scope of this policy must be consistent with the following principles:
 - i. consistency with Council's sustainability goals outlined in Nelson 2060 by favouring sustainably produced goods or services including economic, environmental, and social sustainability
 - ii. buy local is preferred and should be reflected in criteria used for establishing the preferred supplier for the good(s) or service(s) purchased.

- iii. the level of effort in obtaining a good or service (including effort expended on specification of the good(s) or service(s) and on evaluating supply proposals) is commensurate with the value of the good or service
- iv. subject to principle iii, procurement decisions should be based on good knowledge of alternatives available in the market and with awareness of the results of Council's previous and related purchase decisions
- v. improvement in purchasing practices should be continuously sought to enable the objectives and principles of this policy to be better achieved
- vi. appropriate level of authorisation is obtained for all purchases
- vii. the purchasing process, and the oversight of services purchased, are in compliance with Council's broader legislative obligations including but not limited to the Health and Safety at Work Act
- viii. confidential information is to be protected consistent with good business practice and the requirements of the legislation governing Council's activities including but not limited to the Privacy Act and the Local Government Official Information and Meetings Act
- ix. all procured goods or services are fit for purpose
- x. subject to principle ii, procurement processes are to be undertaken in a way which does not restrict or limit the operation of a competitive market in the good or service being purchased.

4. Policy

4.1. General policy requirements.

- 4.1.1. All purchasing activity within Council shall be undertaken in accordance with this policy and shall be in accordance with Council's Delegated Authorities, as set out in the current Council Delegations Register and Officer Delegations Manual.
- 4.1.2. If a consultant or agent is engaged in any capacity to undertake or assist with the procurement of a good or service, their engagement terms must require them to observe the standards of conduct applying to council officers including the relevant parts of paragraph 3.2 of Council's Code of Conduct.
- 4.1.3. Valid purchase orders shall be raised and authorised prior to any procurement unless a declared Civil Defence emergency is in place - providing the Controller with access to special powers (refer Civil Defence Emergency Management Act 2002 s.85 and s.94).
- 4.1.4. It is explicitly not permissible to raise multiple purchase orders for the same procurement from the same supplier (including variation orders issued under an existing contract authorised by the Engineer-to-the-Contract) with the intent of reducing the level of delegated authority required.
- 4.1.5. Staff involved in purchase decisions in any capacity are required to declare any personal conflicts of interest which may affect, or could be perceived to affect, their impartiality (see Conflicts of Interest Policy).

- 4.1.6. Where a subsidy from an external funding agency (e.g. NZTA) forms part of a purchase, prior approval from that agency is required.
- 4.1.7. A particular procurement method or process required by an external funding agency may take precedence over Council's procurement policy and procedures where agreed with or required by the external funding agency.
- 4.1.8. A single point of contact in Council should be established for potential suppliers during a procurement process.
- 4.1.9. Sufficient records must be kept for each purchase to show that this policy was followed.
- 4.1.10. Any contract for the delivery of services must contain provision for review of the services provided, consistent with the complexity of the service provided and the period over which the service is to be provided.

4.2. **Use of contracts**

- 4.2.1. Council's model contracts have precedence over supplier-proffered contract documents, except:
- where a subsidy from an external funding agency forms part of the purchase - in which case the external funding agency's contract documents may take precedence
 - where work similar to that undertaken with external funding agency support is undertaken - in which case the external funding agency's contract documents may take precedence
 - in cases where a supplier selected using the principles in this policy declines to supply the service using other than its own contract documents for good reason and these documents have been reviewed by Council's legal adviser.

4.3. **Review of existing contracts and renewal**

- 4.3.1. Any contract to be renewed must be assessed for cost-effectiveness and fitness for purpose before any renewal process is started. Further, all existing contracts must be reviewed within six year cycles (note, this does not mean that contracts can only be let for six years). Where a significant¹ contract is reviewed, the review must be demonstrably independent in respect of existing Council relationships to the contractor, and the outcome of the review must be submitted to the Senior Leadership Team. Staff involved in such reviews must be aware of, and comply with, the Gifts and Supplier Invitations Policy, the Fraud Prevention Policy and the Conflicts of Interest Policy.
- 4.3.2. The cost-effectiveness of an existing contractual arrangement for the delivery of infrastructure, public services or regulatory functions must be reviewed not less than 2 years before the expiry of any such arrangement or if levels of service have changed significantly. The review must take into account other options for

¹ Significant has the meaning specified in Council's Significance and Engagement Policy

governance, funding and delivery of the service and adhere in all other respects to the requirements of s.17A Local Government Act 2002.

4.3.3. Notwithstanding 4.3.1 and 4.3.2, if the arrangements of a contract satisfy the exemptions set out in s.17A of the Local Government Act 2002, a contract may be renewed without undertaking the reviews described in these paragraphs. Particular attention should be paid to balancing the costs of the review with the benefits obtained (see also principle iii - level of effort commensurate with value of work). In this case the reasons for not reviewing the contract shall be recorded at the time the contract is renewed.

4.3.4. Reviews of contracts must adhere to the steps set out in section 4.5 of this policy relevant to the scale of any new or renewed contract resulting from the review unless in a specific circumstance the Procurement Steering Committee, Senior Leadership Team or the Council decides otherwise.

4.4. **Oversight of procurement**

4.4.1. A Procurement Steering Committee, comprising three Business Unit managers and two Senior Leadership Team members, shall oversee procurement practice within Council.

4.4.2. The Procurement Steering Committee, or as required the Chief Executive or Senior Leadership Team, may approve a variation from the requirements of this policy for an individual purchase process provided that the variation is in accordance with the principles set out in section 3 above and the reasons for variation are documented.

4.4.3. The Committee may, where it considers it necessary for the good management of the organisation, report approved variations to the Senior Leadership Team and/or a relevant Council committee.

4.4.4. The Committee is to be informed of all renewals of significant contracts prior to the processes outlined in section 4.3 commencing and may require reports on the progress or such reviews.

4.5. **Specification, analysis and evaluation (see figure 1)**

4.5.1. For purchases of goods or services with a total value of less than \$5000, quotations are not required and purchase may be made from suppliers provided the principles of this policy are complied with. However preferred suppliers should be used wherever possible.

4.5.2. Purchase of goods or services with a total value of between \$5000 and \$25,000 may be undertaken from a preferred supplier without further evaluation provided Council has a current valid contract with a preferred supplier for the supply of the specified goods and/or services. Preferred supplier arrangements should be established by quotes being sought based on clear and common specification of requirements.

4.5.3. Where no contract exists with a preferred supplier for the supply of the specified goods and/or services, purchase of goods and services with a total value of between \$5000 and \$25,000 may be made after selecting between quotes from

three suppliers provided the quotes are based on a clear and common specification of requirements.

- 4.5.4. Notwithstanding 4.5.3 above, if three quotes cannot reasonably be obtained (e.g. because of the specialist nature of the goods or services sought) purchase can be made as under 4.5.3 with less than three quotes.
- 4.5.5. For purchase of goods and/or services of total value between \$25,000 and \$100,000, an organisational business case must be developed and approved by the relevant business unit manager before soliciting quotes (based on a clear specification of the required good(s) and/or service(s)) from at least 3 suppliers. Criteria to evaluate any quotes obtained must also be established before the quotes are sought.
- 4.5.6. Notwithstanding 4.5.5, provided that a business case has been developed and approved and the purchase is low or very low risk when assessed against Council's risk criteria, purchases of up to \$100,000 may also be sourced from an 'on-call' supplier or supplier panel where such arrangements have previously been established in a similar manner to preferred suppliers (refer 4.5.2 above).
- 4.5.7. All purchases of goods/services of total value greater than \$100,000 are not to proceed until an organisational business case has been developed and approved by a Council manager with the required level of delegation. Once the business case has been approved, bids can then be sought for the supply of the good(s) or service(s). The request to supply the good(s) or service(s) must be publicly advertised, normally by means of request for proposal or tender to supply the good(s) or services. Such request documents must clearly and completely specify what is sought.
- 4.5.8. Before making a public request under 4.5.7 the responsible officer must
 - establish the criteria to be used to evaluate any proposals or tenders received
 - establish a process to separately evaluate the quality and fit to specification of product or service proposed, and the price offered, which shall be followed in evaluating proposals or tenders received.
- 4.5.9. The requirements of 4.5.7 and 4.5.8 need not be followed in the case where there is a Council resolution to take an alternative approach.
- 4.5.10. Notwithstanding the above, operating or capital expenditure contracts are to be reported to the Council for approval or information (as appropriate) based on the limits set out in the current Delegations Register.

5. Whole of government purchase arrangements

- 5.1. Section 4.5 does not apply where Council has decided to become part of a whole of government purchasing arrangement for a particular class of good or service, as the due diligence undertaken in establishing such arrangements is regarded as equivalent to the requirements of this section.
- 5.2. Any decision to join such a whole of government purchase arrangement must be made at a level of delegation consistent with the largest purchase which could

be made under the agreement. Such a decision should be taken bearing in mind the principles of this policy but need not comply with all principles where this is not practicable.

6. Accountability

- 6.1. The Council, all Council Officers including the Senior Leadership Team and all staff whether permanent, or temporary, and any contractors who make purchase agreements on behalf of Council, must adhere to this policy when undertaking any part of a procurement process within the scope of this policy.
- 6.2. Purchasing activity must be in accordance with Council's financial delegations.
- 6.3. The Council Officer who signs any contract is responsible for all its terms and conditions and therefore should be aware of all risks and exclusions pertaining to it.

7. Monitoring and review

- 7.1. From time to time an internal audit shall be undertaken to ensure that this Procurement Policy is being followed.
- 7.2. The Procurement Steering Committee may at its discretion require reports on the progress of any procurement process or any renewal of a contract for good(s) or service(s) purchased by Council and direct that particular actions be taken to comply with this policy.
- 7.3. This policy shall be reviewed and if required updated
 - before the review date listed on the cover page
 - in the event of any changes to the legislation which empowers Council to make purchases
 - at any time at the direction of the Procurement Steering Committee who, in directing, shall consider the fitness of this policy for Council's purposes.

8. Transition

- 8.1. This policy applies to all new procurements from the effective date shown on the header page.
- 8.2. This policy does not apply to any agreement, contract or other purchase arrangement entered into between Council and a supplier before the effective date and remaining in force after the effective date.
- 8.3. Where any contract, agreement or other purchase arrangement expires on or after the effective date, any subsequent contract, agreement or purchase arrangement must comply with this policy.
- 8.4. Where any contract, agreement or other purchase arrangement contains provision for its review, or is to be reviewed following the requirements of section 4.3, and the date of that review is on or after the effective date of this policy, the review is to be conducted in compliance with this policy unless the

contract agreement or purchase arrangement requires different review arrangements.

9. Procedures for implementing this policy

- 9.1. Guidance on how to undertake procurements in compliance with this policy is set out in the following organisational procedures in Council's procedure library (Promapp). This guidance also includes contacts for specific persons whose roles enable them to assist in the operation of successful procurements for the Council and reference material explaining Council's obligations and authorities.

Procurement and contract development procedures are available in the Council procedures library

Figure 1: Specification, analysis and evaluation logic – informative only

