

# Procurement and Contract Management Policy

## 1. Purpose

The Waimakariri District Council (the "Council") is a territorial local authority with obligations to its ratepayers and the public, defined under the *Local Government Act 2002*<sup>1</sup> as: "to 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".<sup>1</sup>

Delivering good public service to the community starts with good procurement. How well money is spent has a direct impact on the quality of services the community experiences, and reflects the Council's efficiency and effectiveness. Waimakariri District Council is committed to open and transparent procurement that delivers the best value for money (which isn't always the cheapest price), ensures impartiality in decision-making, and meets international standards of public scrutiny and accountability.

This Policy, together with the Procurement Strategy and processes, provides guidance to staff on good procurement of goods and services.

## 2. Policy Objective

### 2.1. Support the principles set out in the Preamble to Te Ture Whenua Maori Act 1993

2.1.1. "Whereas the Treaty of Waitangi established the special relationship between the Maori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognize that land is a taonga tuku iho of special significance to Maori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu; and to facilitate the occupation, development, and utilization of that land for the benefit of its owners, their whanau, and their hapu; And whereas it is desirable to maintain a court and to establish mechanisms to assist the Maori people to achieve the implementation of these principles."

### 2.2. Support the principles of best practice procurement

2.2.1. The purpose of the Council Procurement Policy (the 'Policy') is to articulate the Council's commitment to the responsible, effective and fit-for-purpose procurement of goods and services.

<sup>1</sup> LGA (2002) Section 10: 1 (a).

This Policy identifies the authority, responsibilities and operational parameters for prudent procurement decision-making, and the effective management of contracts and associated legally binding agreements.

- 2.2.2. The Policy establishes the guiding principles for the Council's procurement and contract management practices, and seeks to ensure that:
- (a) a robust framework is adopted across the Council for procurement, and the subsequent management and reporting of goods and services contracts;
  - (b) the Council plans for, enters into and manages all contracts in a manner which facilitates Council strategic and business objectives, aligns with community wellbeings, and optimises risk transfer;
  - (c) staff understand their roles and responsibilities with regards procurement and contract management, and are appropriately skilled and trained to do so;
  - (d) the Council achieves quality performance and cost-effective service delivery.
- 2.2.3. Procurement should involve proactively managing supplier and other key stakeholder relationships throughout the sourcing process and for the duration of the contract. This embraces the development of relationships with suppliers, and driving value for money through ongoing efficiency gains.
- 2.2.4. All suppliers must meet the Council's minimum standards to ensure health and safety is maintained.

### **3. Scope**

This policy applies to:

- (a) All Council employees, including temporary employees and contracted staff.
- (b) Any person who is involved in the operation of the Council, including elected members, volunteers and those people with honorary or unpaid staff status.
- (c) Every business, service or activity of the Council – with the exception of employment contracts.

### **4. Statement**

#### **4.1. Policy Context**

- 4.1.1. Procurement plays a vital role in the delivery of Council outcomes, with a significant variety of goods, services and works being purchased from third party suppliers.
- 4.1.2. The Council recognises that rigorous procurement and contract management practices:
- (a) ensure the Council delivers value for money and quality outcomes for the community
  - (b) underpin the performance and delivery of the Council's strategic and business objectives
  - (c) provide opportunities for business sustainability, strategic growth and improvement.

#### **4.2. Principles**

- 4.2.1. Council procurement and contract management practices shall ensure that the Council plans for, enters into, and manages its procurement and contract management activities in a manner that maximises value for money and quality service delivery, as well as realises business, strategic and community expectations.
- 4.2.2. The following 11 principles shall be reflected in all procurement and contract management practices:
- 1) Procurement and contract management processes will comply with all applicable statutory obligations, recognise Council's business, strategic and community expectations, and reflect relevant sector, central and local government good practice standards and guidelines.

- 2) Such processes shall at all times foster a safe working environment for staff, contractors and the general public and support the intent laid down within the Health and Safety at Work Act 2015.
- 3) The purchasing power of the Council will be harnessed for the realisation of its strategic and business objectives, as well as the benefit of the local community.
- 4) Planning and managing for great results. All purchasing decisions will consider what the most appropriate procurement options are, and select from a range of delivery processes to achieve the best outcome for Council and the community.
- 5) The Council shall be fair to all suppliers. All Council procurement for goods and services shall be open and competitive unless appropriate justification is provided and approval is granted in accordance with this Policy. Where open tendering applies, procurement practice will demonstrate integrity by all parties and enable all potential suppliers to have equal access through the use of open and contestable processes.
- 6) The Council shall ensure full probity in its procurement practices and decision-making processes. All procurement decisions will be appropriate and transparent, fair and equitable, and free from any real or undisclosed bias or conflict of interest.
- 7) The Council shall take into consideration the whole of life costs and/or benefits associated with procurement – spanning design, manufacture, delivery, operation and disposal.
- 8) Consideration will be given to sustainable procurement principles whenever possible, i.e. assessing the whole of life social, economic and environmental impact of the procurement.
- 9) All contracts shall clearly identify the functional, performance and/or technical deliverables and key performance indicators that reflect the Council's expectations and quality standards, and establish effective means to measure, monitor and manage their delivery.
- 10) All contracts will be actively managed in a manner that fosters collaboration with suppliers and contractors, maximises value for money, supports the Ta Matou Mauri principles as well as supporting continuous innovation and improvement; including the use of 'All-of-Government Contracts' and 'n3' membership where appropriate.
- 11) All procurement and contract management risks will be identified and managed effectively throughout the life cycle of the goods or service.

4.2.3. These principles are designed to ensure that the procurement of goods and services is an open, selective and transparent process that achieves value for money by delivering the desired outcome at the best possible quality and price. These principles also promote a procurement and contract management process that is impartial, open and ethical, ensuring that all Council procurement and contract management is undertaken in a fair and unbiased way.

4.2.4. Procurement processes should be designed to ensure that purchasing and contract management practice is proportionate to the value, risk and complexity of the purchase. This policy provides a context for sound commercial judgement to achieve the best value for money, which isn't always the cheapest price, to drive innovation and high performance without compromising health and safety.

## 5. Responsibilities

5.1.1. Council staff, consultants on behalf of the Council, and elected members undertaking procurement activities on behalf of the Council, are responsible for ensuring that the process is managed in accordance with this Policy and the associated Procurement Strategy and processes.

5.1.2. The Procurement Project Control Group (PCG) has responsibility for:

- Ensuring appropriate procurement planning is undertaken for high value/high risk projects.
- Ensuring staff and key stakeholders implement procurement good practice and adhere to mandatory requirements.
- Monitoring procurement decisions to ensure good compliance with relevant policies and strategies.
- Keeping current on the environment in which Council operates to ensure that what it is attempting to achieve remains relevant and achievable.
- Specifying key procurement outcomes and ensuring there are adequate resources and finances to achieve public value.
- Monitoring the planning, sourcing, risk management and contract management of high value and/or high risk projects/contracts.
- Ensuring timely and informed interaction takes place within the supply chain.

5.1.3. The Procurement Champions Network Group has the responsibility for:

- Ensuring all staff involved in procurement are aware of and have access to the appropriate information on procurement process, practice, and support.
- Promoting and championing the Policy and Strategy within the organisation.
- Assist in instituting procurement directives from the Procurement PCG, to advocate for and promote procurement change from within the Council, and to be instrumental in implementation of the change.

5.1.4. The Finance Unit has responsibility for:

- Reporting on procurement decisions to ensure good compliance with the relevant policies, strategies, and processes.
- Identifying emerging procurement risks.

5.1.5. The Project Delivery Unit has responsibility for:

- Developing and maintaining fit-for-purpose templates and guidance materials in good practice contract management.
- Auditing contract management processes.

## 6. Definitions

**Appropriate approval:** one up or one sideways - that is as long as the approver has appropriate Delegated Contractual Authority, has adequate knowledge of the transaction, and is not the initiator then they can approve the award of the provision for goods or services and also approve acceptance of the price. They do not need to be the next level up in terms of the staff structure but do need informed knowledge around the nature of the procurement.

**Approver:** staff member with appropriate Delegated Contractual Authority to approve the purchase order or award the contract.

**Bribe or inducement:** the giving or receiving, whether directly or indirectly, of something of value to influence a (procurement or contract management) transaction.

**Contract:** a formal, documented agreement between the Council and a supplier or contractor that commits the Council in legal or financial terms to the acquisition of goods and services.

**Contract administrator:** a designated Council staff member who is responsible for the procurement and/or ongoing management and delivery of contracted goods or services.

**Contract management:** the process of systematically and efficiently managing contract creation, execution and analysis for maximising operational and financial performance and minimising risk.

**Contract owner:** a designated Council staff member who is responsible for the overall spend and delivery of contracted goods or services.

**Contract variation:** an addition or alteration to the terms of contract that is mutually agreed to by both parties to the contract. A contract variation can be documented by letter or variation order.

**Contracted staff:** non-permanent employees of the Council, including consultants and contractors employed on fixed or short-term contracts, who are undertaking business activities on behalf of the Council.

**Direct purchase or procurement:** means the procurement of goods and/or services by placing an order with the supplier of choice, without seeking other bids (see also “Sole Sourced”).

**Emergency situation:** a situation that threatens life, property or equipment, or has a significant impact on services or the public.

**Initiator:** staff member requesting (requisitioning) the purchase or requesting the approval of the pricing method.

**Invited Tenders:** Invited or Restricted tenders, restricted calls for tenders, or invited tenders are only open to selected prequalified vendors or contractors. Invited or Restricted tenders can come about because essentially only one suitable supplier of the services or product exists, of confidentiality issues or of the need for expedience (as in emergency situations). This term covers the following references included in the policy: closed, limited, restricted, invited, selected pricing approaches. Sole source and direct procurement is a subset of the invited approach, where only one supplier is invited to supply a price.

**Market:** all potential providers of a good or service that may be available to the Council.

**Open market:** all eligible suppliers can provide a price. The term covers the following references included in the policy: open and public pricing approaches.

**Open tender:** the process of publicly inviting offers to supply goods or provide services involving specifications and detailed documentation.

**Panel:** a list of suppliers that have been pre-approved through a formal process to supply particular goods or services and who have agreed to WDC terms and conditions for supply.

**Prequalified (Prequalification) List:** a list of suppliers that have been pre-approved as having the capability to deliver specific goods or services.

**Price:** the total price of a procurement for the total period of the contract, including extensions.

**Procurement:** the process of securing goods and services, including but not limited to purchase planning, standards or specifications determination, supplier and sector research, review and selection, pricing negotiation, making the purchase, supply contract administration, disposals and other related functions.

**Proposal:** the process whereby suppliers will propose how their goods or services or works can achieve a specific outcome, and their prices for doing so.

**Quote/Quotation:** the process used to procure standard goods, services or works that are easy to describe (e.g. an off-the-shelf product where the supplier can quote a unit price or contractors providing their hourly rates).

**Services:** the whole of the services, tasks, work and requisites to be supplied, rendered, provided or performed by a contractor under a contract and any variations provided for by the contract, and includes all and any goods, materials, plant, machinery or equipment supplied, provided or used by the contractor in performance of the contract.

**Sole source:** a single supplier is selected and subsequently commercial terms are directly negotiated with that supplier for an agreed scope of works or services (see also **Direct purchase or procurement**).

**Sustainable Procurement:** procurement principles that allow the Council to secure goods and services in a way that recognises the whole of life costs and/or benefits of the goods or service, as well as delivers benefits for the local Waimakariri community, economy and environment.

**Tender:** the process whereby suppliers will respond to the supply of clearly defined goods or services or works. Typically there are highly technical requirements and a prescriptive solution.

**Tendering:** Tendering is the process of making an offer, bid or proposal, or expressing interest in response to an invitation or request to supply goods or services. As a contestable process other businesses are invited to respond to a particular need, such as the supply of goods and services, and will select an offer or tender that meets the needs and provides the best value for money (this term may cover either selected or open tenders).

**Tender request documents:** Also referred to as invitations to tender, Requests for Tender (RFT), and Requests for Proposal (RFP) which outline what is required and set out the Council's requirements. These documents also outline the particular needs, criteria, and instructions that are to be followed.

**Total contract value:** the estimated total value of the contract for the entire life of the contract, including extensions.

**Whole of Life:** an assessment of the total costs and/or benefits of purchasing goods or services – from concept to disposal. This includes purchase outcomes, operating costs spanning the useful life of the good or service, as well as any impacts associated with (product) manufacture, transport, delivery and disposal. Consideration may also be given to sustainable procurement, i.e. assessing the local social, economic and environmental costs and/or benefits associated with the procurement.

**Written Request for Quotation:** a written process of inviting tenderers to supply goods and/or services involving simple documentation and a limited number of potential suppliers.

## 7. Procurement Framework

### 7.1. General

- 7.1.1. All staff involved in the procurement of goods and services must have appropriate knowledge of, and comply with all relevant Council policies, procedures and guidelines, as well as applicable legislation and professional standards of practice with regards the procurement and contract management process.
- 7.1.2. All procurement results must be approved by the relevant reporting authority (staff with Delegated Contractual Authority, Management Team, Committee or Council) and then signed by the relevant delegated authority. No external parties are authorised to sign contracts on behalf of the Council.
- 7.1.3. The contract administrator shall maintain a full electronic record of all procurement preparation, negotiation and award activities, in accordance with this Policy and all Council records management practices.

- 7.1.4. All contracts entered into by the Council must be in writing, signed by all relevant parties, and held securely on file in accordance with Council document management practices.
- 7.1.5. All contracts prepared by the Council shall utilise approved and standardised contract templates whenever possible. If no applicable template exists, the contract administrator shall seek assistance from the PDU Manager or their delegate on the type of contract required.
- 7.1.6. No contractual arrangement entered into by the Council shall be greater than 10 years in its entirety, including rights of renewal. The Council shall not enter into contracts that include more than two rights of renewal or that are “evergreen” (i.e. of indefinite length).
- 7.1.7. Market scoping and the evaluation of potential goods or service suppliers shall be in accordance with the requirements stated at 7.2 – 7.6 below.

## 7.2. Procurement Planning

- 7.2.1. For every purchase that is over \$50,000 or for an external consultant engagement of over \$5,000 a Procurement Plan is required on the appropriate template. The Procurement Plan identifies requirements, determines key milestones and/or delivery timeframes, and describes the process in the identification and selection of suppliers, contractors, and/or consultants. The object is to provide a clear understanding of the scope, timeframe, budget and funding, as well as document responsible, effective and fit-for-purpose procurement of goods and services.
- 7.2.2. The decision about what procurement option to be used will be based on the type of expenditure being incurred as well as other appropriate procurement objectives. Available tools for procurement include:
- Staged tender (e.g. design only or construction only);
  - Design and construct;
  - Supplier panel;
  - All-of-Government or n3 membership.
- 7.2.3. All Procurement Plans are to be approved by the Delegated Authority, Procurement Manager or Procurement Project Control Group (PCG) depending on value, risk, and procurement approach.
- 7.2.4. Procurement Plans for an external consultant engagement must be circulated to the Management Team for information following approval.

**Table 1 – Procurement Plan Approval Requirements**

Criteria	Delegated Authority Approval	Delegated Authority Plus Procurement Manager	Delegated Authority Plus Procurement PCG	Delegated Authority Plus Procurement PCG Plus MTO
External Consultant \$5,000 - \$49,999 and Table 2 <sup>1</sup>	✓	N/A	N/A	N/A
< \$50,000 and Table 2 <sup>2</sup>	N/A	N/A	N/A	N/A
\$50,000 - \$249,999 and Table 2 <sup>1</sup>	X	✓	N/A	N/A
≥ \$250,000 and Table 2 <sup>2</sup>	X	X	✓	N/A
< \$250,000 and Not Table 2 <sup>3</sup>	X	X	✓	N/A

Criteria	Delegated Authority Approval	Delegated Authority Plus Procurement Manager	Delegated Authority Plus Procurement PCG	Delegated Authority Plus Procurement PCG Plus MTO
≥ \$250,000 and Not Table 2 <sup>3</sup>	X	X	X	✓
Multi-year maintenance	X	X	X	✓
Strategic multi-year programme of works	X	X	X	✓
Significant CBD/Arterial road works	X	X	X	✓
High Risk Project	X	X	X	✓

1. Compliance with Table 2 (7.3.2 below) is required and approved Procurement Plan must be circulated to Management Team.
2. Compliance with Table 2 (7.3.2 below) is required.
3. Not in compliance with Table 2 (7.3.2 below).

### 7.3. Price Request Method

7.3.1. Procurement Plans will identify the price request method to be used in the procurement process. Price request methods can be one of the following based on the estimated value of work/goods:

- Sole Source
- Invited Suppliers (minimum of 3)
- Open Market

7.3.2. The required approval of the price request method is defined in Table 2 below. In addition to the approvals shown in Table 2, the Procurement Plan must also be approved by the Procurement Manager or Procurement PCG for every purchase greater than \$50,000 as per Table 1.

**Table 2 – Required Price Request Method Based on Estimated Value of Work**

Price Request Method	Approval to Request Price	Estimated Value of Work/Goods/Services		
		<\$20,000	\$20,000 - \$100,000	>\$100,000
Sole Source	Staff with Delegated Contractual Authority <sup>1</sup>	✓	X	X
	Management Team	N/A	Report <sup>3,4</sup>	Report <sup>3,4</sup>
Invited Suppliers <sup>2</sup> (minimum of 3)	Staff with Delegated Contractual Authority	✓	✓	X
	Management Team	N/A	N/A	Report <sup>3,4</sup>
Open Market	Staff with Delegated Contractual Authority	✓	✓	✓

1. Noting requirements for reporting justification for decision required in 7.3.8.
2. Where Invited Suppliers are used, it should be confirmed that the invited suppliers are interested in pricing prior to seeking prices. It may be desired to invite more than 3 to ensure sufficient prices are obtained to be competitive.
3. Report to Management Team is required in order for the Price Request Method to be approved. The report needs to be accompanied by an approved Procurement Plan if required as indicated in Table 1.
4. Reasons for decision reported to the relevant Standing Committee.

- 7.3.3. Table 2 applies to all externally procured goods and services but excludes land acquisition/disposal and the procurement of internal goods and services such as engaging the Project Delivery Unit or the Water Unit. It also excludes business related purchases such as travel, training, and catering.
- 7.3.4. Where goods or services are procured through a Panel, the specific panel buying rules should be followed and when followed will comply with the requirements of this Policy.
- 7.3.5. Where goods or services are procured through a Prequalification List, the specific requirements of this Policy must still be followed.
- 7.3.6. Where the expected cumulative annual price of goods or services is more than \$100,000, an open tender process is required.
- 7.3.7. Purchasing directly from a supplier without an open and competitive process is acceptable for goods and services below an expected value of \$20,000 based on the following principles:
- (a) The value of the goods or services is relatively low;
  - (b) The purchase of these goods or services is on an as-required basis;
  - (c) It is not practical to aggregate separate orders for the goods or services;
  - (d) The cost of seeking quotations or tenders would be out of proportion to the value of the benefits likely to be obtained, or impractical in the circumstances.
- 7.3.8. Where the estimated value is greater than \$5,000 but less than \$20,000 the reasons for the decision to sole source should be documented in the Purchase Order and approved by the staff with Delegated Contractual Authority approving the expenditure.
- 7.3.9. Quotations and tenders are not required when contracting through the All-of-Government or n3 supplier network since the processes of procurement for a preferred supplier have already been undertaken.

#### 7.4. Receiving Prices

- 7.4.1. The Chief Executive shall appoint a tender secretary who shall be responsible for the management and security of electronic tenders as well as the tender box and the tenders deposited therein. The tender secretary has responsibility for opening the tenders received, either electronically or hard copy and recording the tender prices at the conclusion of the tender process.
- 7.4.2. All price requests with an expected value of work/goods/services greater than \$5,000 shall be received through the electronic tendering system in place. Where the expected value is less than \$5,000, prices may be received through email. The exception to this is any price requests through a panel supplier must be received through the electronic tendering system in place.
- 7.4.3. All tenders, regardless of value, shall be received through the electronic tendering system in place or the tender box.
- 7.4.4. All price requests with an expected value of work/goods/services greater than \$100,000 should be opened in public.
- 7.4.5. Receiving prices shall be in accordance with Table 3 below.

**Table 3 – Process to Receive Prices Based on Estimated Value of Work**

Required to Receive/Open Prices	Estimated Value of Work/Goods/Services				
	<\$5,000 <sup>1</sup>	\$5,000 - \$20,000	\$20,000 - \$100,000	\$100,000 - \$500,000	>\$500,000
Nominated Staff <sup>1</sup>	✓	✓	✓	X	X

Required to Receive/Open Prices	Estimated Value of Work/Goods/Services				
	<\$5,000 <sup>1</sup>	\$5,000 - \$20,000	\$20,000 - \$100,000	\$100,000 - \$500,000	>\$500,000
Tender Secretary and 1 MT Member <sup>2</sup>	N/A	✓	✓	X	X
Tender Secretary and 2 MT members	N/A	N/A	N/A	✓	X
Tender Secretary, 1 MT member, and 1 Councilor	N/A	N/A	N/A	✓	✓
Tender Secretary and 2 Councilors	N/A	N/A	N/A	✓	✓

1. For quotations and price requests that have not been tendered.
2. Only if tendered.

## 7.5. Evaluation Methods

7.5.1. The Procurement Plan will also set out the evaluation method to be used for competitive procurement methods. Options for evaluation method include:

- Lowest Price Conforming
- Price Quality Method
- Quality Based Method
- Target Price (where outputs are difficult to define)

7.5.2. Note that a two stage procurement process, such as an Expression of Interest (EOI) process, may use a different evaluation process for each stage of procurement.

7.5.3. Outcomes of the tender evaluation must be reported to staff with Delegated Contractual Authority.

7.5.4. Documentation required following evaluation must meet the requirements set out in Table 4.

**Table 4 – Required Evaluation Documentation Based on Estimated Value of Work**

Process	Estimated Value of Work/Goods/Services		
	<\$50,000	\$50,000 - \$250,000	>\$250,000
Quote	Quote evaluation email <sup>1</sup>	Quote evaluation memo <sup>2</sup>	Report to Management Team, Standing Committee or Council with quote evaluation report <sup>3</sup>
Proposal	Proposal evaluation memo <sup>2</sup>	Proposal evaluation report <sup>2</sup>	Report to Management Team, Standing Committee or Council with proposal evaluation report <sup>3</sup>
Tender	Tender evaluation memo <sup>2</sup>	Tender evaluation report <sup>2</sup>	Report to Management Team, Standing Committee or Council with tender evaluation report <sup>3</sup>

1. Evaluation email from Initiator to budget holder as Approver (TRIM reference to be included in PO).
2. Evaluation memo/report from Initiator (project team) with budget holder endorsement, to department manager as approval.
3. Report to Management Team, Standing Committee or Council from budget holder (or their delegate) with evaluation report from Initiator (project team) attached.

- 7.5.5. All evaluation documentation must cover the following (where appropriate based on the type and scope of works).
- Price – including assessment of value and comparison to budget available
  - Programme – including assessment against tender requirements/budget
  - Quality – including assessment of relevant previous work
  - Health & Safety – including SiteWise score
  - Risks – including whether specific risks have been documented and appropriately managed

**7.6. Accepting and Awarding Contracts**

- 7.6.1. The Council is accountable to the community through the Long Term Plan and Annual Plan. All purchases (including tenders) of any goods and services which commits expenditure from the current year’s Annual Plan shall be accepted by an officer with sufficient contractual authority as described in the delegations manual S-DM 1046.
- 7.6.2. One up approval (as defined in ‘Definitions’ above) must be used for all purchases. This means that there needs to be more than one person involved in the purchasing decision and approval. That is, an Initiator and an Approver with the appropriate delegation to approve a purchase.
- 7.6.3. Based on the recommendations in the evaluation documentation, tenders, quotations, and proposals can be accepted as shown in Table 4.

**Table 4 – Process for Accepting Prices**

Type of Price Request	Approval to Accept Price	Value of Work/Goods/Services (Annual Expenditure or Total Contract Value)	
		≤\$1,000,000	≥\$1,000,000
Tenders, Quotations & Proposals	Delegated Contractual Authority	✓	X
	Standing Committee / Council	N/A	✓

- 7.6.4. Where a minimum of three prices have been sought and less than three prices were received, the process followed complies with Table 2.
- 7.6.5. Once a tender, quotation, or proposal has been accepted, a letter or notification through the electronic tendering system confirming award of contract must be provided to the successful supplier and unsuccessful letters or notification provided to the unsuccessful suppliers.
- 7.6.6. All purchases must have an approved Purchase Order. The exception to this requirement is contracts using Buyer Created Tax Invoice. Buyer Created Tax Invoices are used for larger contracts with more than three progress claims expected. A Purchase Order should be raised by the contract administrator or their delegate and approved by staff with appropriate level of Delegated Contractual Authority.

**7.7. Variations**

- 7.7.1. Increases in the scope of work of a contract through a contract variation may be authorised in accordance with Table 2 if there is adequate budget available.
- 7.7.2. If there is insufficient budget for the increase in scope of work, then approval for additional budget must be sought by the budget holder if the exceedance is greater than 5% of the contract value or \$50,000 in value.

- 7.7.3. Other contract variations that arise throughout a contract, including deemed variations, are considered and decided upon by the engineer to the contract.
- 7.7.4. Where these contract variations cumulatively exceed the budget, then the overspend shall be reported as soon as possible by the budget holder.

## 7.8. Payments

- 7.8.1. Payment claims must be approved by staff with the appropriate level of delegated contractual authority.
- 7.8.2. Payment claims that are greater than \$1,000,000 can be approved by the Chief Executive.

## 8. Sustainable Procurement

- 8.1.1. The Council recognises that procurement and contract management practices provide a key opportunity to maximise value for money and quality service delivery, as well as deliver tangible benefits for the local community, economy and environment – as articulated in the Council's Strategic Framework.
- 8.1.2. As such, the principles of sustainable procurement shall be recognised whenever possible in the assessment of the costs and benefits of procurement on a whole of life basis, as follows:
  - (a) *Think Local*: The Council shall preference those suppliers that can evidence a positive economic footprint in the region. This includes contributing to the vibrancy and sustainability of the local economy, supporting job or market growth, as well as fostering opportunities for small and medium sized enterprises (SMEs).
  - (b) *Think Environmental*: The Council shall encourage procurement decisions that have a positive impact on the natural environment and biodiversity, including the prudent use of natural resources, the minimisation of waste or hazardous substances, and efforts to reduce carbon or Greenhouse Gas (GHG) emissions.
  - (c) *Think Social*: The Council shall encourage procurement decisions that maximise community benefits in terms of personal wellbeing, social cohesion, capital and inclusion, equal opportunities and participation.
  - (d) *Think Cultural*: The Council shall encourage procurement decisions that have a positive impact on maintaining cultural beliefs, cultural practices, and heritage conservation.
- 8.1.3. Whenever practicable, the Council shall give conscious consideration to sustainable procurement principles, including when undertaking cost-benefit analyses or weighted attributes assessments of potential goods and service suppliers.

## 9. Conflict of Interest

- 9.1.1. The Council shall ensure that procurement and contract management processes cannot be justifiably challenged on the basis of any real or undisclosed bias or conflict of interest.
- 9.1.2. All procurement and contract management decision-making processes shall include careful consideration of any actual, potential or undisclosed conflicts of interest.
- 9.1.3. Under no circumstances shall a staff member influence, advise or participate in a procurement or contract management activity where that employee has an actual, or undisclosed conflict of interest.
- 9.1.4. Every person on the Tender Evaluation Team (TET) must complete a declaration in writing that they have no actual or undisclosed conflict of interest. This includes those involved directly in procurement and contract management activities, as well as anyone who has the ability to influence key decisions (e.g. those holding delegated contractual authority or monitoring performance).

- 9.1.5. Where there is uncertainty about whether there is a conflict, employees should discuss the potential conflict with the Contract Owner, Line Manager or Department Manager or Chief Executive. If in doubt, employees should at all times fully disclose a potential conflict or bias. Refer also to the Council Conflict of Interest Policy for further details.
- 9.1.6. Where the CE is involved with procurement and/or contract management and identifies a potential conflict of interest, escalation shall be to elected members.
- 9.1.7. It is never acceptable for a Council staff member to accept a bribe or inducement. Any such instances will be dealt with in strict accordance with the Staff Code of Conduct Policy (QP-C507) and other applicable guidelines - see also the Council Fraud Policy and Procedures (QP-C513).
- 9.1.8. As part of the procurement process the Council Gifts Register shall be reviewed to identify gifts and/or hospitality received by any person involved in a procurement process. Should these exceed a cumulative value of \$500 in the preceding 12 months, the person will be precluded from taking any part in the procurement process.
- 9.1.9. Suppliers may be disqualified from tendering for Council goods and services for a period of not less than 12 months if they lobby or contact Councilors or staff (other than contacting staff named in the tender documents) regarding a tender while the tendering process is in progress.

## **10. Contract Management**

### **10.1. Documentation**

- 10.1.1. The Council shall maintain a central database of all approved and/or active contractors, and ensure comprehensive records are held, including all third- party vetting; H&S approval; insurance coverage; contract review, renewal or expiration dates; deviations and variations. This database will be contained within the Council electronic procurement system, VendorPanel.
- 10.1.2. All Council contracts shall have a delegated contract administrator, who acts as the dedicated single point of contact and is responsible for the effective management and delivery of the contract in line with this Policy and all associated processes or guidelines.

### **10.2. Contract Negotiation**

- 10.2.1. Service delivery contracts (including maintenance contracts) shall include measurable, relevant, and robust key deliverables, measures, and performance indicators (i.e. 'SMART' key performance indicators that are Specific, Measurable, Achievable, Relevant and Time-bound).
- 10.2.2. All contracts shall establish effective and robust monitoring and reporting activities that ensure delivery of pre-determined deliverables and levels of performance.
- 10.2.3. All contracts shall comply with Council, professional regulatory body and statutory obligations as required.
- 10.2.4. Contract administrators shall be alert to, and address any provisions in contracts that expose the Council to unsuitable or unacceptable risk. This includes a review of prior service delivery or performance by potential third party suppliers.

### **10.3. Contract Delivery**

- 10.3.1. Contract administrators shall regularly monitor, audit and review contractor delivery against agreed milestones, deliverables or performance expectations over the life of the contract, including maintaining a regular audit programme, as required.
- 10.3.2. All contractor payments, performance bonds and other financial transactions shall be made in accordance with the terms of the contract and appropriate assurance of agreed performance delivery, in accordance with relevant Council contractual delegations and authority.

- 10.3.3. Contract administrators shall engage relevant parties and establish variations or re-negotiate contract terms where appropriate.
- 10.3.4. Full records of all contract evaluations and performance monitoring activities (including any variations, renewals and cancellations) shall be held in accordance with the Council document management guidelines and practices.

#### **10.4. Escalation and Exit**

- 10.4.1. The Council shall ensure appropriate and effective processes and mechanisms are in place for the reporting, escalation and resolution of performance issues or contract delivery failure.
- 10.4.2. Contract owners shall monitor contract schedules for renewal or expiry, and effectively manage the business impacts arising from exiting the agreement, including ensuring all relevant intellectual property, data or property is returned to Council.

### **11. Risk Management**

#### **11.1. Risk Identification**

- 11.1.1. The Council shall ensure that the costs, benefits and risk presented by procurement are identified, and appropriately reflected in the procurement and contract management methodology utilised.
- 11.1.2. Contract owners shall work collaboratively with engaged providers to identify, assess and manage all risks associated with the goods or service procured, throughout the length of the contracted period.
- 11.1.3. All risks shall be identified in a risk register for the project. The form of the risk register will be based on the scale and complexity of the project.

#### **11.2. Risk Mitigation**

- 11.2.1. All critical issues must be escalated and resolved appropriately to ensure the continued quality delivery of service expectations.
- 11.2.2. All risk management and mitigation strategies must be clearly documented as part of the procurement and contract management process.

#### **11.3. Residual Risk**

- 11.3.1. Any risks that are not able to be eliminated at the design stage of a project, residual risks that will be transferred to the supplier must be identified in the contract document.

### **12. Deviations**

#### **12.1. Deviation Types**

- 12.1.1. Deviation from the Council's procurement and contract management processes may be necessary due to circumstances beyond the control of Council. Such instances include:
  - (a) A limited number of suppliers available in the market.
  - (b) A different procurement methodology or process is stipulated by legislation or a professional/ regulatory body.
  - (c) An exceptional, urgent or emergency situation where immediate Council decision-making is required and is in the best interests of ratepayers.

#### **12.2. Deviation Approvals**

- 12.2.1. Approval for deviations that fall under (a) or (b) above shall follow the procedures in 7.3 for Price Request Method.

12.2.2. Approval for deviations that fall under (c) above, shall be by two members of the Management Team prior to adoption, and if appropriate the decision ratified retrospectively by the CE.

### **12.3. Deviation by Conflict of Interest**

12.3.1. In such instances where a staff member has a conflict of interest, but also possesses specific expertise that is deemed essential to the procurement decision-making process and which is not available from any other sources, including those external to the Council, two members of the Management Team may sanction that person's involvement in writing, provided they:

- (a) ensure the staff member's involvement is limited as much as possible; and;
- (b) closely supervise the staff member's role and takes personal responsibility for the fairness and equity in the decision-making.

## **13. Record Keeping**

13.1.1. All procurement and contract document management processes shall adhere to relevant statutory and regulatory obligations, including the Public Records Act 2005.

13.1.2. Clear and comprehensive written records of all procurement and contract management activity shall be retained in accordance with Council document management policies and protocols. This includes market, tender and evaluation material, contracts and variations, performance reporting, correspondence and associated service delivery records

13.1.3. Procurement and contract management records shall provide a clear, transparent and accessible audit trail so that Council staff, auditors and/or legal advisors may readily establish the process and rationale for any procurement decisions made and actions taken.

13.1.4. At a minimum, records shall be retained that demonstrate:

- (a) Council procurement and contract management processes have been followed, as outlined in this Policy and all associated procedures and practice guidelines.
- (b) Procurement adheres to appropriate budget allocations through the Long Term Plan, the Annual Plan, or an approved Business Case.
- (c) Approval for procurement has been obtained from the relevant holder of delegated contractual authority, the Procurement Manager or the Procurement PCG as required.
- (d) The Council has identified key contract performance expectations and deliverables, and undertaken appropriate measures and audit/ monitoring activities that provide assurance of performance.
- (e) All risks are identified, assessed and effectively managed in collaboration with the contractor, including Health and Safety assessments, site planning and maintaining appropriate insurance cover.
- (f) All members of the tender evaluation team involved in decision-making have affirmed that they are free from any real or undisclosed conflicts of interest.

## **14. Confidentiality**

14.1.1. Employees involved in procurement and contract management activities shall take all due precautions when handling commercially sensitive information. This includes ensuring information is not passed between parties entering into a tender or other competitive procurement process, as well as maintaining the rights of Council and third-party intellectual property.

- 14.1.2. Confidentiality obligations continue throughout the procurement and contract management process, as well as after the contract has terminated or expired.

## 15. Health and Safety

- 15.1.1. The Health & Safety at Work Act 2015 requires that an organisation must ensure the health and safety of workers (including contractors), and that organisations must consult, co-operate and co-ordinate activities with all other organisations who have health and safety duties in relation to the same matter (overlapping duties); so far as is reasonably practicable. WDC maintains contract health and safety management systems in order to achieve compliance with these requirements.
- 15.1.2. Suppliers for all contracts shall be required to meet a range of health and safety requirements throughout the life-cycle of the contract, which, depending on the nature of the contract, may include (but are not limited to):
- Health and safety pre-qualification
  - Site specific safety plans
  - Site inductions
  - Incident reporting
  - Site safety audits
  - Contract close outs
- 15.1.3. In particular, all suppliers for contracts involving physical works shall be health and safety pre-qualified. This will mean that they are assessed at >50% via the SiteWise health and safety pre-qualification system as a minimum, or meet the requirements of another externally-audited pre-qualification system of equivalent or superior standard (this will be approved on a case-by-case basis by the WDC Health & Safety Team).
- 15.1.4. Suppliers can achieve health and safety prequalification before or during the tender period, but pre-qualification must be achieved prior to work commencing.
- 15.1.5. Where a decision is made to select a supplier who is not health and safety prequalified as the preferred tenderer (or who has a SiteWise score lower than any minimum score indicated in the tender documents), approval must be gained from the Management Team. The reasons for the decision shall be reported (such as emergency works, or a sole supplier situation).
- 15.1.6. All further health and safety requirements for the duration of the contract shall be clearly defined within the contract documentation.

## 16. Questions

Any questions regarding this policy should be directed to the Procurement Manager in the first instance.

## 17. Relevant documents and legislation

- WDC Ta Matou Mauri – Our Principles
- Controller and Auditor-General Procurement Guidance for Public Entities June 2008
- Ministry of Business, Innovation and Employment, Government Rules of Sourcing 2015
- *Local Government Act 2002* S3(c) promotes the accountability of local authorities to their communities,

- and S10 (b) has the purpose of local government as meeting 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
- All tenders which are subject to a New Zealand Transport Agency (NZTA) subsidy must comply with the requirements of NZTA. If there is any conflict between this policy and the NZTA requirements, then the NZTA requirements will take precedence to the extent of the inconsistency
- *Health and Safety at Work Act 2015*
- [WDC Contract Admin Guidelines](#)
  - QP-C1030 – Physical Works – Preparation of Request for Tenders
  - QP-C1031 – Physical Works – Inviting Tenders
  - QP-C1032 – Physical Works – Tender Evaluation
  - QP-C1042 – General Purchase – Inviting Tenders
  - QP-C1043 – General Purchase – Tender Evaluation
- [WDC Quality Policy](#)
  - QP-C387 – Purchasing Procedures – Selection of Suppliers
- [WDC Standard Contract Forms](#)
  - QP-C494-AI Evaluation Report - Standard Tender Acceptance Report
  - QP-C494-AG Evaluation Appendices – Our standard document for lowest price conforming contracts

**18. Effective date**

2 August 2022

**19. Review date**

2 August 2025

**20. Policy owned by**

Manager, Finance & Business Support

**21. Approval**

Adopted by Waimakariri District Council on 2 August 2022