

Procurement Policy (Updated December 2022)

TO BE USED BY ALL EMPLOYEES, CONTRACTORS AND CONSULTANTS WHEN PROCURING GOODS AND SERVICES AND OTHER WORKS.

Version 2, adopted December 2022, to be reviewed annually.

Introduction

Procurement plays an important role in how Upper Hutt City Council (the Council) delivers its strategies and our work towards delivering our vision for the city. As a spender of ratepayer money it is important that the Council is prudent. This policy provides consistency, accountability, and guidance on how the Council manages procurement services. The Council is a significant buyer of goods and services and the way we manage our expenditure and spend public money has an impact in the local economy and can affect the Council's performance and reputation.

This Policy incorporates the Government Procurement Rules (fourth edition), the **Rules**, published by the Ministry of Business, Innovation & Employment | Hikina Whakatutuki, which should be read in conjunction with this Policy. A link to the Rules is included at the end of this policy for reference.

Purpose

This policy is intended to be a flexible framework to be used for a range of procurement activity from simple and low risk to complex and high risk.

This policy's key objective is to drive a consistent and transparent approach to spending public money.

This procurement policy is to inform the Council employees and contractors of the requirements when undertaking procurement for the Council, with particular consideration to:

1. Emphasise the importance of broader outcomes and commitment to achieve positive and sustainable cultural, environmental, social and economic outcomes from procurement and contract management activities.
2. Contributing to the achievement of Council's strategic goals as encompassed in the five priority areas – Environment, Community, City Centre, Economy and Infrastructure Strategy.
3. Value for money.
4. Transparency and fairness, irrespective of the value of the procurement.
5. Accountability.
6. Recognise the Treaty of Waitangi.

Legislative context

The principal legislative guidance for procurement is in s10(1)(b) of the Local Government Act 2002 (**LGA**) which reads:

The purpose of local government is...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.

And “good quality” means: efficient, effective, and appropriate to present and anticipated future circumstances.

The LGA gives further guidance at s14(1)(a) which provides that:

...in performing its role...a local authority should (i) conduct its business in an open, transparent, and democratically accountable manner; and (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner...

Council seeks to achieve ‘best value’ and carry out its work in an efficient and effective manner by the implementation of this Policy.

Scope of this procurement policy

This Policy and the Rules reflect current procurement good practice.

All Council employees and, contractors¹ must comply with this policy and apply the Rules to any procurement on behalf of Council except that this Policy is not applicable to:

1. The employment of staff under employment contracts issued by the People and Capability team.
2. The acquisition or leasing of land or buildings (but this does not include design, construction, renovation, or refurbishment of land or buildings or complex transactions involving land and buildings all of which are subject to the policy).
3. Circumstances where there is compelling justification to depart from the procurement process and the reasons are recorded and approved by the Chief Executive.
4. Investments, borrowing, and other similar financial transactions.
5. Transport infrastructure works to which New Zealand Transport Agency | Waka Kotahi is contributing funding and which its procurement processes have been applied.

All procurement processes relating to transport infrastructure works which claim financial assistance from the New Zealand Transport Agency (NZTA) must comply with the Procurement Manual for activities funded through the National Land Transport Programme and the Hutt City Council and Upper Hutt City Council joint procurement strategy.

All procurement of any kind must be undertaken in compliance with the Delegations Manual.

Procurement which does not trigger the financial thresholds set out in this Policy may be exempt (in whole or part) from the Rules as set out below.

Applying this Policy

All procurement should be conducted with reference to the following five principles of procurement. The Principles are in plain English to make it easier for both agencies and suppliers to understand and apply:

1. Plan and manage for great results
2. Be fair to all suppliers

¹ Contractor refers to individuals or third parties contracted to undertake process on behalf of the Council

3. Get the right supplier
4. Get the best deal for everyone
5. Play by the rules

PLANNING

When planning procurement projects we will:

- use processes that are proportionate to the size, complexity and risks involved in the contract to get the best outcomes
- make sure we have up to date knowledge about the market and the effect our procurement has on it
- involve suppliers early in the process to explain our needs, learn about them and explore opportunities for new solutions before going to market
- consider subcontracting opportunities in big projects, so small and medium enterprises can grow their business capability
- ensure financial approval aligned in accordance with the Delegations Policy (at least in principle) before going to market.

SOURCING

When we buy goods/services/works, we will:

- purchase from All of Government panel arrangements or existing supply contracts if they can meet our requirements
- give all suppliers a full and fair opportunity to compete
- choose suppliers that have demonstrated their ability to meet our requirements and offer the best value-for-money over the lifetime of the goods/services/works, taking into account:
 - all the costs of ownership over that lifetime
 - suppliers' ability to deliver what we need at a fair price and on time
 - the social, environmental and economic effects of the deal
 - suppliers' ability to provide their plan to reduce greenhouse gas emissions (GHG) within their business activities
 - suppliers' ability to provide GHG data on a regular basis showing GHG reduction from their business activities
- have an agreement in place approved by our legal advisors before the supplier starts delivering goods/services/works.

CONTRACT MANAGEMENT

To get the best from our suppliers, we will:

- set clear performance measures, then monitor and manage the contract against them
- encourage and recognise suppliers for delivering great results
- work with suppliers to ensure on-going value (social, economic and environmental), savings and improvements for both entities.

MEETING EXPECTATIONS

To build effective relationships with suppliers we will:

- treat them all fairly and with respect
- be consistent, transparent, fair and accountable in the way we work
- be clear about what we require and how we will assess them before going to market
- give sufficient response time for our requests
- protect their commercially sensitive information and intellectual property
- offer a debrief to unsuccessful bidders
- pay invoices promptly.

PLAYING BY THE RULES

Our decisions and practices must be able to withstand public scrutiny at all times. Throughout our procurement activities we will:

- clearly record our planning, processes and decisions so they can easily be audited
- document and manage conflicts of interest
- identify risks and get the right person to manage them
- act lawfully, ethically and responsibly.

Rule exceptions, including financial thresholds

This section sets out limited exceptions or amendments to the Government Procurement Rules.

Where a rule is optional, the reasons for not applying it should be documented as part of the procurement process.

GENERAL EXEMPTIONS OR AMENDMENTS TO THE GOVERNMENT PROCUREMENT RULES

1. The maximum total estimated value thresholds in Rules 6 and 7 do not apply and instead the financial thresholds in this Policy apply.
2. Rules 11 and 12 (which specify types of procurement not covered by the Rules) do not apply; those matters are dealt with by this Policy.
3. Rule 13 (requirement to openly advertise) applies but Council is not required to use the Government Electronic Tenders Service (GETS), although it may if it wishes to or is otherwise required to (for example, by Waka Kotahi).
4. Rules 22 and 53 and 53 (relating to reporting to MBIE) do not apply.
5. Rule 34 (minimum timeframes) is recommended but optional.
6. Rules 35 to 37 and 48 (relating to the use of GETS) do not apply unless GETS is used.
7. Rules 58 to 60 (all of government arrangements) are optional. If procuring through an all of government panel, syndicated Government contract, or Government common capability contract, no additional procurement process is required by this Policy continues to apply.
8. Rule 64 (consultation with Treasury on procurement of infrastructure > \$50m) is optional.

FINANCIAL THRESHOLDS

Low-value procurement does not always justify an open and competitive advertised tender approach.

The total estimated value of a procurement should be calculated in accordance with Rule 8 of the Government Procurement Rules.

Procurement arrangements must not be structured or divided at any stage to fall under the thresholds to avoid tendering.

An open and competitive process is optional for purchases under these values.

GENERAL PROCUREMENT OF GOODS/SERVICES/OTHER WORKS

TOTAL ESTIMATED VALUE	EXEMPTION TO GOVERNMENT PROCUREMENT RULES
\$0 - \$20,000	Government Procurement Rules do not apply.
\$20,001 - \$99,999	Partly exempt from Rule 14 (open advertising). Closed tender allowed.
\$100,000	Rule 14 applies in full: Open and competitive tender required.

Construction contracts

TOTAL ESTIMATED VALUE	EXEMPTION TO GOVERNMENT PROCUREMENT RULES
\$0 - \$50,000	Government Procurement Rules do not apply.
\$50,001 - \$499,000	Partly exempt from Rule 14 (open advertising). Closed tender allowed.
\$500,000	Rule 14 applies in full: Open and competitive tender required.

The financial delegations outlined in the Manual of Delegations must be adhered to when conducting any procurement process. All requests to procure goods and services must be authorised by a person holding the appropriate financial delegation for the total life of the contract.

All of government contracts

In order to drive procurement efficiencies Council will utilise All-of- Government panel contracts, syndicated Government contracts, and Government common capability contracts unless there is good reason not to, with reference to the purposes of this Policy, such reasons to be documented in a procurement plan and approved by the [Chief Executive](#).

Integrity

Council's procurement processes are subject to scrutiny and must therefore be conducted according to appropriate ethical and probity² standards.

Council is committed to dealing with suppliers in a fair and equitable way. All employees and contractors must act and be seen to be acting in a fair, open and unbiased manner when involved in any aspect of procuring goods and services.

² In the context of a procurement process, probity means a defensible process which is able to withstand internal and external scrutiny – one which achieves both accountability and transparency and provides tenderers with fair and equitable treatment – Office of the Auditor General

Sustainability

The Council has a Sustainability Strategy goal and action plan to be a carbon neutral organisation by 2035. Environment is one of the Council's [four community outcomes](https://uhccgovtnz.sharepoint.com/sites/dochub/refdocs/Sustainability%20Strategy%202020.pdf) (Rautaki Whakauka 2020: <https://uhccgovtnz.sharepoint.com/sites/dochub/refdocs/Sustainability%20Strategy%202020.pdf>) Council will support the market for environmentally responsible products and services.

Environmental Sustainability should be considered when procuring any goods, services, and all construction projects over the value of \$50,000.

Examples of how environmental sustainability should be applied and assessed are provided below:

SUPPLIER

Request to see the environmental credentials of the supplier/s. This might be certifications they hold, waste management and minimisation processes, a corporate responsibility programme, sustainability of supply chain, any existing sustainability practices, and whether they have an internal Environmental Management System.

PROJECTS

Request that the supplier identifies the project's significant environmental impacts and demonstrates how their design or controls will mitigate these impacts. For example, preventing contaminants from entering the stormwater, waste minimisation processes, use of fuel and energy efficient plant and machinery.

Require an Environmental Management Plan for all contracts where there is a potential for environmental harm.

Contract terms will reflect the supplier organisation Climate change responsibilities and actions.

PRODUCTS

Environmental standards are specified for particular products. For example, FSC or PEFC accreditation for timber and paper, and MEPS labelling for white ware.

Request to see specific environmental credentials of a given product. For example, its recycled content, its recyclability, its carbon footprint, and use of less energy intensive processes.

Where significant environmental hotspots are known in the product's life cycle, consideration is given to brands or products that perform better on these elements. For example, avoiding procurement of products containing arsenic.

Health and safety

Council's Health and Safety requirements must be considered before entering into the procurement process. As part of the procurement process Council is required to actively manage risk associated with any new or modified buildings or structures, equipment, material, services or work processes introduced into the workplace as follows:

1. Consult with relevant health and safety personnel (including contractors) in the purchase or implementation of new or modified, buildings or structures equipment, material, services or processes.
2. Provide evidence that health and safety issues have been incorporated into purchasing and design decisions where applicable.

Related internal documents

- Code of Conduct
- Conflicts of Interest Policy
- Gift and Hospitality Policy
- Financial Delegations Policy
- Procurement Guide
- NZTA Procurement Manual
- Hutt City Council and Upper Hutt City Council Joint Procurement Strategy
- Health and Safety Manual
- Sustainability Strategy 2020

References

Office of the Auditor General; Procurement Guide for public entities [2008]

<https://oag.parliament.nz/2008/procurement-guide/docs/procurement-guide.pdf>

Ministry of Business, Innovation and Employment; Government Procurement Rules Fourth Edition [2019]: [Government Procurement Rules - Rules for sustainable and inclusive procurement](#)

Public service Commission and OAG – conflicts of interest in the public sector

<https://www.publicservice.govt.nz/resources/conflicts-of-interest/>

Standards of Integrity and Conduct [2007] - <https://www.publicservice.govt.nz/resources/code/>