

Procurement Policy v1.3

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1. BACKGROUND AND POLICY STATEMENT

- 1.1. This policy states the minimum mandatory requirements for purchasing and contracting for goods and services, and supports Council to achieve reductions in greenhouse gas emissions in line with Council policy. The policy seeks to strengthen Council's role as a change leader, to work with the challenges of market constraints, and to achieve great procurement outcomes.
- 1.2. Council resolved in June 2020 that its Procurement Policy should incorporate broader outcomes as outlined in the Government Procurement Rules; that is, Council should use procurement as a way to support wider social, economic, cultural and environmental outcomes that go beyond the immediate purchase of goods and services.
- 1.3. In supporting these outcomes through procurement, Council's initial priority focus areas are: increasing opportunities for local businesses to work with Council; increasing skills and training in our region, particularly in construction; improving conditions for local workers, and reducing emissions, waste, and environmental pollution.

2. SCOPE AND APPLICABILITY

- 2.1. The policy applies to all goods and services procured by Council, with some exceptions as per this policy.

3. DEFINITIONS

"CCTO" means Council Controlled Trading Organisation

"Closed competitive" means inviting a minimum of three Suppliers to submit a quote or a proposal for goods and/or services

"Direct purchase" means purchasing from a single Supplier, without seeking quotes or proposals from other Suppliers

"Infrastructure physical works" means water, wastewater, stormwater, flood protection, roading, structural and vertical structure physical works projects

"initial term of a contract" means the first period of the contract that is being approved and committed to.

"Living Wage" means the Living Wage hourly rate as defined by the Living Wage Movement Aotearoa

"Local" means Suppliers located, or established, in the Nelson-Tasman region

"Officers" means Council employees

"Open competitive" means publicly advertising an opportunity to submit a quote, proposal, or tender for goods and/or services

"Suppliers" means sole traders, commercial companies, and not-for-profit organisations, providing goods and/or services to Council

"Total term of a contract" means the full length of a contract including the initial term and all renewal periods provided for in the contract.

4. OBJECTIVES

- 4.1. Ensure Council gets the best public value and benefit over the lifetime of the goods and services.
- 4.2. Make sure everyone involved in purchasing and contracting acts responsibly, lawfully, and with integrity.
- 4.3. Ensure procurement decisions seek broader outcomes aligned with Council's responsibility to promote the social, economic, environmental, and cultural well-being of our communities, in the present and for the future, as specified in the Local Government Act 2002.
- 4.4. Ensure purchasing decisions are guided by the underlying principle of minimising greenhouse gas emissions, to comply with emissions reduction targets prescribed by Council, or in the absence of a Council target, as prescribed by the Climate Change Response Act 2002.
- 4.5. Get the right Suppliers who can deliver what we need, at a fair price and on time.
- 4.6. Create competition and encourage capable Suppliers to work with Council.
- 4.7. Make it easy for all Suppliers to do business with Council.
- 4.8. Ensure relevant stakeholders are appropriately involved in procurement and contract management outcomes.
- 4.9. Make sure the procurement effort is in proportion to the size, complexity, and risks associated with the goods and services.

5. POLICY

Procurement Considerations

- 5.1. Prior to beginning any purchasing activity, officers must understand and specify what is being purchased. In specifying the goods and/or services needed, requirements must include consideration of all of the following:
 - the positive contribution to or the negative impact on Council's climate change goals, and targets for reducing or limiting greenhouse gas emissions
 - the whole of life costs, including end of life disposal
 - the health, safety, environmental, economic, social and cultural outcomes to be achieved
 - Council's role in encouraging Suppliers to:
 - support, or to work towards, paying a Living Wage to their employees
 - support their employees to gain further skills and certification
 - support their employees to increase their knowledge of, and participation in, our region's culture and history

- 5.2. Officers must verify if Council has existing contractual arrangements through which the required goods and/or services could be supplied, and assess if those arrangements are suitable for achieving the required procurement outcomes.
- 5.3. Where appropriate, Council should seek to minimise the cost of procurement by using All of Government (AOG) contracts, joint or collaborative purchasing arrangements, and through establishing umbrella contracts (also known as "Supplier panels", or a "call-off" contract with a single Supplier).
- 5.4. The Council will comply with UN Resolution 2334 and not contract with the list of companies identified by the United Nations Human Rights Council as being involved in the building, maintenance, or consolidation of illegal Israeli settlements. An organisation on the United Nations' list will only be included on a procurement shortlist in exceptional circumstances and with the approval of the Chief Executive.

Thresholds and Procurement Controls

- 5.5. For non-Infrastructure physical works, purchase methods are either direct purchase, closed competitive, or open competitive, and must meet the minimum thresholds set out below:

Total estimated value – all years, excluding GST	"minimum" purchase method
Up to \$5,000	Direct purchase through purchase order
\$5,000 to \$50,000	Closed competitive Direct purchase permitted with Council Business Unit Manager approval
\$50,000 - \$250,000	Closed competitive
\$250,000 – \$500,000	Open competitive Closed competitive permitted with Council Group Manager approval
More than \$500,000	Open competitive

- 5.6. For Infrastructure physical works, the following procurement thresholds and controls apply:

Total estimated value – all years, excluding GST	"minimum" purchase method
Up to \$2,000,000	Direct purchase – using local contractors with appropriate skills and previous experience. No public advertising via GETS.
Over \$2,000,000	Open competitive via GETS

- 5.7. Lower minimum thresholds may be specified by a Council Business Unit Manager for specific purchases within their business unit.
- 5.8. Additional controls may be specified by a Council Business Unit Manager for purchasing activity which is considered more vulnerable to risk, such as:
- lack of skills and/or experience of the lead officer or evaluation team
 - the type of goods or service ("new to us", or in itself carries inherent risk)
 - the realistic potential for reputational damage if procurement outcomes are not met, or if the integrity of the procurement policy objectives is compromised
- 5.9. Regardless of whether additional controls have been specified by a Council Business Unit Manager, the risks associated with a procurement must be identified and appropriately managed through to the conclusion of the procurement.
- 5.10. A direct purchase can be made with a supplier above the thresholds noted above if evidenced that they are the sole provider of the goods or service in NZ. Appropriate delegated authority must still be obtained prior to the purchase.

Adherence to Procedures

- 5.11. Officers must use the approved Council procurement and contracting procedures for direct purchase, closed competitive, open competitive procurement, award of contract, and ongoing contract management.
- 5.12. Purchasing activity must be documented and recorded as described in the relevant approved Council procedures.
- 5.13. Contracts must be awarded using Council's set of approved contract templates.
- 5.14. All contracts awarded must be recorded in Council's contracts register.

Approvals

- 5.15. All procurements, regardless of value, must be approved prior to actual purchase, with a "one-up" management approval within officer financial delegated authority. This includes approval for the initial term of a contract. Separate approval must be sought for any variations, extensions and renewals of contracts. The Tenders Subcommittee must approve the final award of contract for purchases that exceed the Chief Executive Officer's delegated financial authority.

Term of Contract

- 5.16. The term of a contract for the purposes of approval by a person with appropriate delegated authority refers to the initial term only. Renewals and extensions must be authorized separately when the current contract term is completed. The total contract term includes the initial term and renewal periods if it is provided for in the terms of the contract.
- 5.17. For provision of services where Council has an ongoing need, the maximum contract term is 10 years. Exceptions to the maximum contract term of 10 years require approval from the Chief Executive Officer.

Performance Measures

- 5.18. Contracts must have clear performance measures, which must be monitored and managed by officers to achieve the best outcomes from the contractual arrangement.

Preferred Attributes in Suppliers

- 5.19. This section sets out the preferred attributes in the Suppliers to the Council. All contracts to be let by Council will take into account the extent to which the preferred attributes will be required, and the extent to which the preferred attributes will influence procurement outcomes.
- 5.20. Council aims for its services to be delivered with the lowest possible greenhouse gas emissions. Council's preference is to contract with Suppliers who can demonstrate they are actively reducing, or committed to reducing greenhouse gas emissions and are building their resilience to the impacts of climate change. In aiming to become a carbon zero organisation, Council will progressively seek solutions that meet or exceed this target, through its procurement decisions.
- 5.21. Council's preference is to contract with Suppliers who can confirm their employees, with the exception of those on apprenticeship schemes, or cadets, will receive at least a Living Wage for work undertaken for Council. In line with the intentions of this policy, Council's expectation for existing contracts, or approved variations to existing contracts, is that Suppliers are committed to working towards a Living Wage for their employees.
- 5.22. Using local Suppliers is preferred, where Council's need for skills, experience, and availability can be met.
- 5.23. Suppliers must ensure that their insurance and liability arrangements are reasonable and appropriate for the level of risk associated with the purchase and its related contractual agreement. For some purchases and contracts, Suppliers may be required by Council to provide additional insurances.
- 5.24. Suppliers may sub-contract work with Council's written agreement, subject to any conditions specified in the written agreement such as a requirement to comply with Council's procurement policy. Suppliers must accept liability for the acts and omissions of such sub-contractors.

CCTOs and Joint Committees

- 5.25. Nelmac Limited is a Council CCTO, and provides core infrastructural essential services for the maintenance and operation of Council utilities including water, storm water, and wastewater. Council's Investment Policy, adopted by Council resolution on 19 September 2019, states Council's policy is to negotiate an ongoing partnership agreement with Nelmac Limited for the provision of specified strategic services to Council. Therefore, Council may elect to extend or renew its utilities maintenance contracts with Nelmac Limited without following the requirements set out in paragraph 5.4.
- 5.26. Procurements undertaken for a Joint Committee's area of responsibility must comply with this policy, where Nelson City Council is the administering Council.

6. EXCEPTIONS AND POLICY VARIATIONS

Exceptions

- 6.1. Purchases through AOG arrangements must use the form of contract specified by the AOG arrangement.
- 6.2. A Supplier's form of contract may be used for IT software applications and licensing, with the approval of the relevant Council Business Unit Manager.
- 6.3. For all other purchases, approval must be obtained to use a non-Council contract form, and the contractual terms and conditions should be no less onerous than the comparable Council approved contract template. A request to use a Supplier's form of contract may be approved by the relevant Council Business Unit or Group Manager, where the total estimated value of the contract is within their delegated financial authority. Where the risks associated with a Supplier's form of contract are considered above acceptable levels, legal advice must be sought through Council's internal legal advisers.
- 6.4. An alternate procurement method or process may take precedence over Council's procurement policy and procedures where agreed with or required by an external funding agency. This may also apply for procurements on behalf of a partnership group where Council does not have sole decision making authority.
- 6.5. For a specific purchase, an officer may request an exception from the requirements of this policy; such requests require approval by Council's Senior Leadership Team. Requests for exception must detail the justification for the exception request, and how the objectives of this policy will be upheld.
- 6.6. This procurement policy does not apply to the following transactions:
 - Property and land purchases
 - Community funding provided by Council
 - Grants provided by Council
 - Koha, gifts, donations to volunteers in appreciation, and in kind donations
 - Investments, loans and guarantees
 - Employing staff
 - The appointment of non-elected committee members

Policy Variations

- 6.7. Council's Senior Leadership Team may, in exceptional circumstances, approve a temporary variation to this policy for some or all of Council's procurement, for a defined time period. Such temporary variations will be reported to the Audit, Risk and Finance Subcommittee.

7. OVERSIGHT

- 7.1. An internal Procurement Steering Committee, established in 2019, will:
- Oversee procurement practice within Council
 - Direct the continuous improvement focus for procurement and contracts, including relevant key recommendations from internal and external audits
 - Review approved exceptions from the requirements of this policy
 - Have oversight of upcoming Council procurements
 - Monitor and have oversight of trends in NZ procurement practice which could be relevant to Council
- 7.2. Purchasing activity will be reported on a quarterly basis to the internal Procurement Steering Committee.
- 7.3. Contracts awarded for a total value of more than \$300,000 will be notified to the relevant Council Committee.
- 7.4. Excluding contracts for IT software applications and licensing, and AOG purchasing arrangements, contractual agreements using a Supplier's form of contract will be reported on a quarterly basis to the internal Procurement Steering Committee.
- 7.5. An annual performance evaluation of contracts of significant value - that is, contracts awarded that required approval from either the Chief Executive or the Tenders Subcommittee - will be reported to the relevant Council Group Manager.
- 7.6. The effectiveness of this policy will be reviewed annually by the internal Procurement Steering Committee. Recommendations from the internal Procurement Steering Committee for minor amendments to this policy may be executed with the approval of the Chief Executive. Such amendments will be reported to the Audit, Risk and Finance Subcommittee.

8. GUIDANCE, PROCEDURES, TEMPLATES AND RESOURCES

All resources supporting procurement including related policies, procedures, templates and guidance are available to officers through Council's procedure library

Procurement Process Overview

Procurement thresholds and purchases methods	
Total estimated value – all years, excluding GST	"minimum" purchase method
Up to \$5,000	Direct purchase through purchase order
\$5,000 to \$50,000	Closed competitive Direct purchase permitted with Council Business Unit Manager approval
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\$250,000 – \$500,000	Open competitive Closed competitive permitted with Council Group Manager approval
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