

***PROCUREMENT AND CONTRACT MANAGEMENT POLICY***

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**1. INTRODUCTION**

The Central Hawkes Bay District Council is a local authority with obligations to its ratepayers and the public as defined under the Local Government Act 2002.

Procurement and contract management plays an important role in the delivery of Council outcomes, with a wide variety of goods, services and works being purchased from third party suppliers to deliver the levels of service and capital projects in the Long Term Plan (LTP). Procurement policy traditionally focuses on sourcing the right suppliers but it needs to be supported by effective contract management to ensure Council receives the value that was promised by suppliers in the procurement process. The scope of contract management can range from simple 'on time, on cost and in spec' operational delivery through to broader strategic innovations and contributions. Most Council staff are involved with some or all procurement and contract management processes including planning sourcing and managing as demonstrated in the procurement lifecycle diagram below.



**Procurement and Contract Management Lifecycle**

The Council recognises that it is a significant user of public money, and that the expenditure of this money impacts the local and domestic economy and the overall performance of the Council. Council must demonstrate that its procurement and contract management processes from source and selection through to payment are fair, transparent, compliant and auditable, and that staff and suppliers are able to deliver services in a safe and efficient commercial environment.

This policy provides clarity for staff and suppliers and outlines how Council will meet its obligations as described in the Office of the Auditor General's 'Procurement Guidance for Public Entities' (<https://www.oag.govt.nz/2008/procurement-guide/docs/procurement-guide.pdf> )

## Procurement framework

Council's procurement framework is as follows:



## Compliance and delegations

All Council Groups will comply with guidelines outlined in this policy and Council expects all staff and business units to be guided in their procurement of goods, services and works by the sensible application of the following principles and procurement policies. For clarity, this includes compliance with Council's preferred suppliers, contracted suppliers and their associated purchasing and invoicing processes.

Council's default policy is an open competitive tender process commensurate with delegated financial authority supported by effective contract compliance. However, Council encourages innovation, and if a new or different approach or methodology will deliver better value for money then it can be proposed and approved by way of a Procurement Plan.

## Approach to policy and guidelines

Council's approach to procurement and contract management policy is to develop and maintain principles and business rules that are appropriate for delivering its outcomes. For guidelines, or 'how to' practices and procedures, Council will work with Hawkes Bay Local Authority Shared Services

(HBLASS) to develop a common set of tools and guidelines. This will be informed by best practice tools and templates developed and maintained by Ministry of Business Innovation and Employment (MBIE), and the New Zealand Transport Agency (NZTA) procurement guide for infrastructure construction and maintenance tendering.

## Alignment to organisation principles and values

Council's suppliers are often the 'face of council' in our community and they can also be part of our community as local businesses or staff who reside in Central Hawkes Bay. It is important that we recognise this through aligning our interactions with suppliers with the core principles and values of 'Thrive' where we demonstrate the following:

- DOING IT TOGETHER: Central Hawke's Bay will be stronger when we work together. Partnerships and collaboration are at the core of everything we do.
- CUSTOMER EXCELLENCE: The communities we serve are our customers. They are at the heart of our decisions, interactions and communication. We'll engage with our customers to deliver value and exceed expectations.
- THINKING SMARTER: We need to think smarter and better in everything we do. With a culture of innovation and continuous improvement we will add value to our communities.
- VALUES:
  - ✓ TRUST – We create trust by acting with integrity.
  - ✓ HONESTY – We do what is right even when no one is looking.
  - ✓ RESPECT – We have respect for each other, our community and our stakeholders.
  - ✓ INNOVATION – We find smarter ways to do things to produce improved and sustainable results.
  - ✓ VALUING PEOPLE – We are one team, supporting each other to succeed.
  - ✓ EXCELLENCE – We deliver exceptional results.

## Our objectives

The objectives of the Procurement and Contract Management Policy are to provide clear direction to management and staff in relation to the procurement, contract management and purchasing functions and establishes a decision framework that:

- Ensures purchases are made in a transparent and accountable manner
- Delivers best value for money through the most appropriate goods or services provider
- Ensures open and effective competition
- Supports sustainability with particular regard to longer term affordability
- Appropriately manages risk e.g. contractual, financial and public interest
- Promotes efficient purchasing practices and their continuous improvement
- Ensures suppliers are delivering their service promise, contractual obligations and/or innovations that improve efficiency and effectiveness
- Encourages local economic development
- Ensures Council's purchasing activities are in accordance with its legal responsibilities

## Purpose

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

- Inform Council staff, and those acting on behalf of the Council, of the objectives, behaviours and principles appropriate when undertaking procurement and purchasing activities
- Protect staff and suppliers from exposure to fraud, conflict of interest and illegal activities
- Encourage a common understanding and consistent management practice across the Council organisation to realise procurement-related value for money<sup>1</sup>
- Promote transparency in how the Council manages its procurement
- Promote effective management of contracts and the supply market
- Ensure procurement practices are always consistent with legislation
- Provide a framework for common understanding of Council procurement practices for potential vendors

## Scope

The policy applies to all contracting and procurement activities at Council and is binding upon councillors, council staff and suppliers engaged by Council. These processes cover all goods and services delivered in part or in full by 3rd party suppliers and include:

- Source and selection of suppliers (direct award, quotes and tenders)
- Contracts and contract management
- Establishing and maintaining approved vendors
- Sourcing and managing preferred suppliers and/or supplier panels
- Raising and approving purchase orders
- Goods or services receipting and invoice approval (including contracted claims processes)

For clarity this includes goods or services supplied by non-commercial entities such as Iwi, volunteer and other community organisations.

This policy does not apply to the following activities:

- The employment of staff (excluding the engagement of contractors and consultants to supply services)
- The acquisition or lease of strategic land or buildings (excluding the design, construction or refurbishment of buildings)
- Disposals and sales of Council assets
- Investments, loans, guarantees, or other financial instruments
- Gifts, donations and grants

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<sup>1</sup> Council will follow the Office of the Auditor General's definition for value for money in procurement which is:

*Value for money means using resources effectively, economically, and without waste, with due regard for the total costs and benefits of an arrangement, and its contribution to the outcomes the entity is trying to achieve.*

*In addition, the principle of value for money when procuring goods or services does not necessarily mean selecting the lowest price but rather the best possible outcome for the total cost of ownership (or whole-of-life cost).*

*Value for money is achieved by selecting the most appropriate procurement method for the risk and value of the procurement, and not necessarily by using a competitive tender*

- Non-contractual agreements between public sector agencies, such as memorandums of understanding.
- Statutory or ministerial appointments.

## **Related policies and legislation**

### **Legislation and central government guidance**

Council procurement and contract management practices must be compliant with current legislation and council officers must actively seek assurance that suppliers comply with their legal obligations.

### **Council Policies**

- Sensitive Expenditure Policy
- Purchases Policy
- Delegations Register

### **Policy Owner**

This policy is the responsibility of Group Manager Corporate Support and Services

### **Policy Management**

This policy will be managed by the Executive Leadership Team. The Executive Leadership Team and Council will meet and agree the formation and role of a Tenders sub-committee to oversee the annual procurement strategy process and outcomes, and procurement plans for procurements with a value greater than \$1,000,000.

## 2. MANAGEMENT – PROCUREMENT STRATEGY

Council will obtain better value for money through strategic planning of its procurement and contract and relationship management. For strategic procurement planning and management purposes Councils requirements for goods and services are assigned to one of three main categories being

- **Infrastructure Services** – all asset maintenance, service delivery and capital works associated with, Property, Roads, Water, Wastewater, Solid Waste and Stormwater
- **Community Services and Governance** – all outsourced activities associated with community services and governance including parks and open spaces, parking, animal control, libraries, swimming pools, elections, hearings and licencing and consents
- **Corporate Services and Purchasing** – all goods and services required for the effective and efficient management of Council offices including stationery, professional and legal services, information, communications and technology (ICT), electricity and consumables. Also includes purchasing transaction management.

The Executive Leadership Team (ELT) will assign ownership of the procurement strategy for each of these categories.

### Strategy Outcomes

The procurement strategy(s) will outline specific objectives, procedures and initiatives that will contribute to the following long term outcomes where Council will:

- Increase its measurable contribution to Council's Economic Development Strategy, and local economic wellbeing and growth
- Increase value for -money from its suppliers
- Realise opportunities from works programme bundling, sequencing and prioritising
- Optimise outsourced asset lifecycle costs
- Consider the depth and sustainability of the regional supply market
- Increase its capability to procure goods and services efficiently and effectively
- Position itself as a client of choice for high performing value adding suppliers
- Maintain compliance with requirements for fair and transparent value for money procurement and contract management

### Strategy dependencies

Council will consider and align procurement strategy development and reviews to the following:

#### Section17a reviews

Section 17a of the Local Government Act requires Council to regularly review how it delivers services, which informs decisions to insource or outsource services. Council requires procurement strategy reviews to consider the timing and outcomes of S17a reviews.

## **NZTA Procurement Strategy**

NZTA requires Approved Organisations to maintain a procurement strategy for all activities supported by funding from NZTA. Many of Councils Infrastructure Services category suppliers offer goods and services across all infrastructure assets and Council therefore requires staff to integrate the requirements of a complying NZTA strategy into its wider Infrastructure Services category strategy.

### **Central and regional initiatives**

For many expenditure categories such as electricity, stationery and fleet, Council has access to arrangements made by central government through All of Government contracts (AOG) or through shared procurement with regional organisations such as Hawkes Bay Local Authority Shared Services (HBLASS). Council requires national and regional initiatives to be considered in its procurement strategy.

### **Strategy scope, development and reviews**

The ELT will oversee the development and maintenance of a rolling three year procurement strategy for each of the three categories. The scope of the strategy will encompass the following:

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- Relevant Section 17a reviews
- Relevant contracts expiry and term renewals
- NZTA complying strategy for NZTA funded activities
- Supply chain capability and capacity development
- Identification and development of strategic supply partners
- Local economic development including upstream and local suppliers
- Programme optimisation
- Regional shared opportunities and initiatives
- Identification and development of preferred supplier panels
- Preferred suppliers for minor expenditure
- Relationship and contract management
- Strategic and significant supplier business ownership and accountability
- Procure to pay processes

The ELT will provide an annual procurement strategy review report to the Risk and Audit committee by 31 July each year.

### 3. OPERATIONS - HOW WE WORK

#### Principles

Council has aligned its procurement and contract management policy and practices to the principles developed and maintained by the Ministry for Business Innovation and Employment (MBIE) which are:

**Plan and manage for great results:** This is about actively planning for success – it's as simple as 'plan, do, check, improve'. Make sure your process is reasonable and set realistic timeframes.

**Be fair to all suppliers:** This is about giving all suppliers a chance to respond – either as a prime contractor or a sub-contractor. We need to make it easy for people to do business with us. It's essential to give suppliers enough time to prepare and send in their proposals.

**Get the right supplier:** This is about choosing the right supplier and being confident that they will successfully deliver.

**Get the best deal for everyone:** This is about achieving best value for money – which often isn't the lowest purchase price. It's also about making quality decisions that remain good over the life of the contract.

**Play by the rules:** This is about building trust with suppliers and keeping a reputation as a fair buyer.

#### Delegations

All procurement decisions will be subject to approval as outlined in [Council's Delegated Financial Authority \(DFA\) guidelines](#). In addition to the DFA the ELT will act as Council's Tenders Committee and maintain oversight over all Council procurements.

The Executive Leadership Team has the responsibility to oversee the procurement processes for all purchases requiring a commitment between \$200,000 and \$1,000,000 over the life of the contract. Procurements with a value greater than \$1,000,000 must be approved by Council by way of a procurement plan and a supplier recommendation report.

#### Procurement Plans

Procurement Plans (a form of business case) must be completed for all procurements where an existing supplier is not being used. The Procurement Plan must be approved by the appropriate manager under the Delegations Register.

Any non-budgeted goods or services procurement with a value of more than \$5,000 must be supported by an approved procurement plan regardless of value or risk.

#### Managing Risk and Value

Procurement risk is a combination of value, complexity and other non-financial factors such as public profile, sensitive expenditure areas, depth of supply market or dependencies across projects.

A key step in developing a procurement plan is to complete a simple risk assessment. This assessment helps identify particular issues that staff should address in their procurement plan.

All procurement activity will be authorised in line with Councils delegated financial authorities. Approved procurement methods will be determined by the value and risk of the procurement.

The value / risk profile is defined as follows:

**Low value procurement** – this is where there is little or no risk and the value of the procurement is less than **\$10,000**. In most cases the goods or services will be provided by a preferred or contracted supplier as published by the Corporate Support and Services Group.

**Simple procurement** – this is where there is some risk and the value is **>\$10,000 and <\$100,000**. In this case the standard procedure is quotes from preferred or panel suppliers. If existing contracted, preferred or panel suppliers are not appropriate then a Procurement Plan that recommends another approach must be prepared (e.g. an open tender or direct award to a high performing supplier).

**Complex procurement** – this is for high risk and/or procurements valued at **over \$100,000**. This is a full business case based process starting with a procurement plan approved by the appropriate delegated financial authority.

Note – the value is the total potential value of the contract ie: if it is valued at \$25,000 per annum, and it's a three year contract, then the procurement value is \$75,000

## **Probity and legal review**

Complex procurements are significant and can include advanced procurement methodologies such as weighted attribute evaluation. They also usually result in a contract and attendant schedules being prepared and executed. To ensure Council's interests and responsibilities are well managed the procurement plan must address how probity and legal review will be managed.

This should be addressed on a case by case basis, however as a general guide any procurement with a value greater than \$1,000,000, or involving sensitive expenditure, should require independent probity audit and legal review.

For clarity, the probity period for any procurement commences with the approval of a procurement plan and concludes with the approval of a supplier recommendation report. Staff involved must ensure that they do not compromise themselves or Council through things such as accepting gifts or gratuities from suppliers, or communicating with suppliers or other interested third parties about the procurement.

## **Conflict of Interest**

All staff involved in the preparation and execution of a public procurement process are to complete a Conflict of Interest declaration which is to be approved by the delegated financial authority for the procurement.

## Form of Contract

Council does not have a specific preferred form of contract and expects the Procurement Plan to specify the recommended form of contract to be used in the circumstance. Forms of contract to consider include:

- Council's template for Strategic Relationships
- MBIE templates (<http://www.procurement.govt.nz/procurement/for-agencies/government-model-contracts> )
- NZS series (NZS 3910,16,17 etc) (<https://shop.standards.govt.nz/search/ed?q=Contracts&fq=&sort=&start=10> )
- NEC series (<https://www.neccontract.com/Products/Contracts> )
- FIDIC books (<http://fidic.org/bookshop/about-bookshop/which-fidic-contract-should-i-use> )
- Bespoke (refer to Executive Leadership Team)

## Contract Management

Contracted and/or preferred suppliers must be well managed in order for Council to obtain best value for money through contract compliance, ongoing development and innovation and effective contract management.

Council's contract managers will provide an annual contract compliance report to the Executive Leadership Team that provides assurance that both Council and the supplier have met their contracted obligations.

Council requires all preferred suppliers, panel suppliers and contracted suppliers of ongoing services (such as infrastructure maintenance or fleet management) of more than \$100,000 pa, or high risk (such as legal advisors and engineering consultants), to prepare and maintain a Continuous Improvement Plan which should be refreshed annually and reported against half yearly. Suppliers who are required to maintain these plans will be itemised in the annual procurement strategic plan.

## Emergency Procurement

From time to time Council must undertake emergency procurement in order to protect life and/or property and infrastructure from the effects of natural or manmade events, health or environmental emergencies or other unanticipated events.

In these cases, if it is impractical to follow normal procurement procedures, then staff should proceed using the following guidelines:

- Refer to the Delegations Register for approved purchasers
- Procure the required goods or services from Council's preferred or existing suppliers. Large contracts should already have provisions in place for emergency or response based activities.
- Follow up any verbal request for service with a written confirmation as soon as practicable
- Retrospectively comply with purchasing rules as soon as practicable. Please note that suppliers will not be paid until these processes have been complied with.
- Complete a post-procurement report to the Executive Leadership Team with recommendations and an implementation plan for improved practices

## Purchasing Rules

Council must protect itself, its staff and its suppliers from fraudulent activities in addition to supporting efficient and effective management of its financial transactions with suppliers. To achieve this, the following rules must be complied with:

- **Purchase orders (POs)** – all POs with a value greater than \$5,000 require a two-step approval as detailed in the Delegations Register
- **Invoice approval** – ‘two step approval required if the invoice value is flagged as varying from the PO value by more than the allowed percentage recorded in the financial management system
- **‘No purchase order – no pay’**: if a supplier doesn’t put a valid PO# on their invoice they will not be paid. In the case of monthly claims for large contracts, then contractors must provide the required work order or purchase order number for each activity claimed, or, obtain approval for a pro-forma claim from the budget holder.
- **New Vendor requests**: raised by requestor and approved by budget holder

**Contract Register**: no tender can be let, and no contract can be signed, without a valid contract number. Any exceptions to the above rules must be approved in writing by Group Manager Corporate Support and Services.

## Procurement and Contract Management Practice guidelines

Council practice will be informed by MBIE and NZTA procurement guidelines and manuals. The reasons for this are:

- Tools and templates are legally reviewed and regularly updated
- MBIE practices include all current public sector procurement methodologies together with guidelines as to when a particular methodology is appropriate
- The site supports All of Government (AOG) contracts that Council and/or HBLASS may join
- The site supports training and capability development
- Suppliers are becoming increasingly familiar with the practices, contract and supplier relationship management tools and templates recommended by MBIE
- Adopting a centrally provided resource will reduce risk, cost and administration for Council

## Review

This policy replaces any policies that are currently in use and will be reviewed in 12 months.

Signed: \_\_\_\_\_

Monique Davidson  
**CHIEF EXECUTIVE**

## Glossary of terms:

Term	Meaning
<b>Claim</b>	Claim is a contracting term for the documentation that supports an invoice in (normally) larger capital and asset management contracts.
<b>CUP clause</b>	A clause that enables Eligible Agencies to join an Open Syndicated contract. The CUP clause must be included in all syndicated contracts.
<b>Preferred supplier</b>	A provider of goods or services under a non-exclusive contractual arrangement, especially for indirect categories. The arrangements are usually non-binding, standing-offer agreements which offer preferential terms for a defined period of time. Preferred suppliers may be selected after a competitive evaluation as being the best value providers for a given category, and the terms of the preferred supplier arrangements are publicised to end users who are encouraged to raise purchase orders on those suppliers. The use of preferred supplier arrangements can help achieve better value and help reduce the size of the active supply base.
<b>Probity</b>	Probity is demonstration that the procurement process will be conducted ethically and fairly, with all participants provided an equal opportunity. All procurement processes need to win the trust of suppliers so that they feel confident that their offers will remain confidential and that the best offer will win. However, probity is of especial concern to the public sector, as not only do public sector procurement processes need to be conducted in a transparent and impartial way, officers need to be able to demonstrate the integrity of the process in the event of challenge.
<b>Procurement</b>	Procurement describes all those processes concerned with developing and implementing strategies to manage an organisation's spend portfolio in such a way as to contribute to the organisation's overall goals and to

	<p>maximise the value released and/or minimise the total cost of ownership. Procurement is a more comprehensive term than purchasing, which is more focused on the tactical acquisition of goods and services and the execution of plans rather than the development of strategies.</p>
<b>Procurement plan</b>	Effectively a Business Case for a procurement activity
<b>Procurement Strategy</b>	The procurement strategy documents how Council will coordinate all of its procurement activities to meet its business objectives.
<b>Purchasing</b>	Purchasing describes all those transactional processes concerned with acquiring goods and services, including payment of invoices. It is a narrower term than procurement, describing reactive, tactical processes. Typically purchasing processes are triggered by the development of a request to purchase by a user.
<b>Purchase Order</b>	A purchase order [PO] is a document issued by a buyer to their supplier that defines what is needed, in what quantity, when performance is required, and on what terms, including price and payment terms. The issue of a purchase order is increasingly a prerequisite in many payment systems for the payment of invoices.
<b>Vendor</b>	The term 'vendor' is a generic label applied to suppliers.