BULLER
DISTRICT COUNCIL
Te Kaunihera O Kawatiri

CONTRACTOR PROCUREMENT AND MANAGEMENT MANUAL

Creation Date:	30/09/2026	Consulted On:	N/A
Approved Date:	30/09/2026	Date for Review:	30/09/2029
Author:	Jess Curtis Corporate Strategy and Planning Manager	Authorised By:	SLT
Version:	V2.0		
Also Refer To:	Minor Contractors' Procurement and Management Manual Procurement Policy Financial Delegations Policy Health and safety Management System Artificial Intelligence Use Policy		

Overview:
Procurement is defined as the process of acquiring goods, works and services. The process spans the whole cycle from identification of the needs to the end of a contract including contract management and administration during works.

Objective:
The objective of this Manual is to help the Council establish clear, standardised processes that ensure transparency, fairness, and accountability when acquiring goods and services. The Manual promotes consistency, mitigates risks, ensures legal and regulatory compliance, and enhances value for money while maintaining ethical standards.

Procedure:
When completing procurement or contract management at BDC, all staff are required to follow the steps outlined in this document. For further assistance or advice, please contact the Corporate Strategy and Planning Manager

Applicable to:

- ✓ All employees, consultants and Contractors of Buller District Council procuring and/or managing contracts

Note: Manager refers to Group Manager, Manager, Team Leader and/or Supervisor

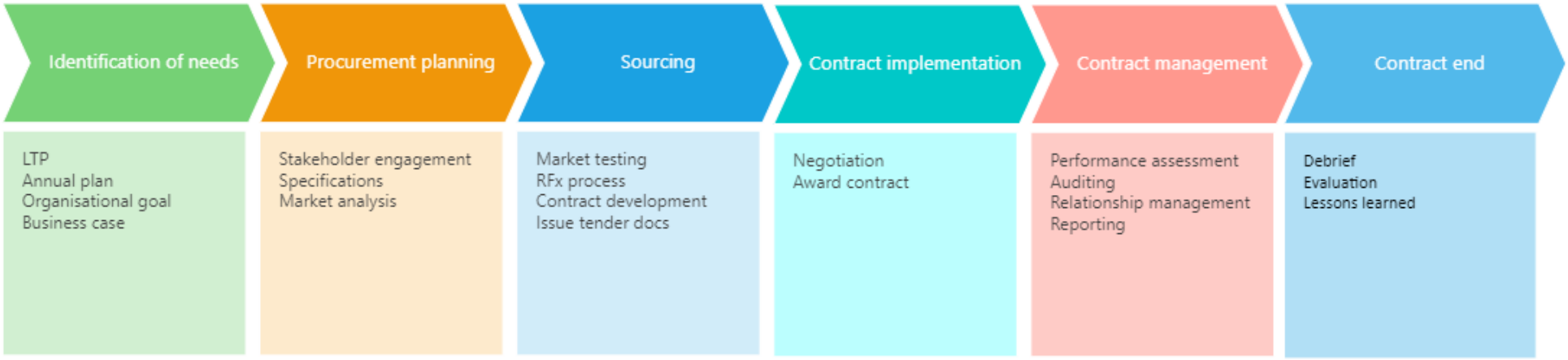
Table of Contents

1. OVERVIEW 4
2. IDENTIFICATION OF NEEDS 5
3. PROCUREMENT PLANNING 7
4. SOURCING 15
5. FULL PROCUREMENT PROCESS 18
6. CONTRACT IMPLEMENTATION 33
7. CONTRACT MANAGEMENT 39
8. CONTRACT PAYMENTS, VARIATIONS, AND EXTENSIONS 43
9. CONTRACT END 48
10. KEY DOCUMENTS 49
11. ROLES AND RESPONSIBILITIES 50

1. OVERVIEW

Procurement and contract management at Buller District Council goes through its own lifecycle, which spans from identification of needs through to the end of a contract.

The 'Identification of needs' stage (stage 1) is the point of identifying key roles e.g. procurement lead and contract manager. See Project and programme management framework for set up documents within this stage.



This document gives a summary of templates, forms, guidelines and the process for procurement, and contract management broken down by each stage of the procurement lifecycle.

2. IDENTIFICATION OF NEEDS

Once confirmed that the procurement of any value is needed, the estimation of the total value of the procurement and the risk associated with the procurement are to be considered which identifies the whether the final contract will be a minor or a major contract. For all major contracts a Procurement Lead is to be identified at this step of the lifecycle until the Contract is awarded when the Contract Manager will take over the contract management and end.

Estimate the total value of the procurement

Before deciding how to approach the procurement, the procurement lead must estimate the total value of the procurement as fully and accurately as possible. The total value of the procurement can be estimated in different ways:

- Identified through the annual plan or long-term planning process.
- For multistage contracts, e.g. design or consents - the combined total value is to be approved under one procurement approval.
- For multi-year contracts, the total value of the procurement is the combined years total up till the **end of the final term of contract** is due e.g. the combined total value of a 3 + 3 years contract before review is 6 years.

This will show:

- Which threshold applies and the sourcing process should be followed.
- Who has the appropriate delegated financial authority to approve the total expenditure (i.e. the total contract sum).

Estimating costs accurately also helps avoid problems later in the process if submissions from suppliers, or contracts, exceed the available budget.

Complete a risk assessment of the procurement

Risk is the effect of uncertainty on achieving objectives with the BDC Risk management manual giving a framework and processes. Low risk work is generally:

- short-term involving limited expenditure.
- of a continuing nature where the work performed is routine.
- has well defined hazards that are generally not significant and can be effectively controlled with routine processes.

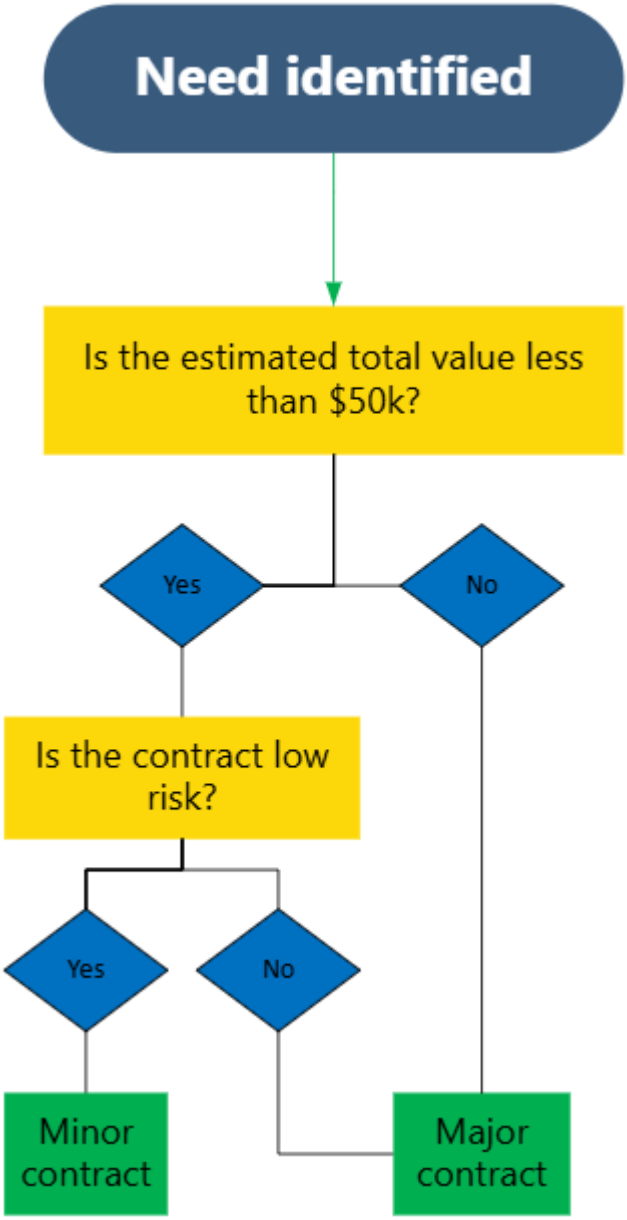
Minor contracts

Contracts for low-risk work are generally of limited duration or exposure and are known as minor work contracts.

Major contracts

Contracts for work such as medium to high-risk safety aspects, larger financial value, significant stakeholder impacts or design complexities are known as major work contracts.

Major vs Minor Contract Decision Tree:



For Minor Contracts please refer to the Minor Contractors Procurement and Management Manual.

3. PROCUREMENT PLANNING

Standard procurement and contract table

Council should always seek to provide Value for Money, which includes both the whole-of-life cost of the goods/services and any positive impact on the community. Crown funded procurements including NZTA have additional requirements around open-advertising as detailed below that need to be addressed.

The following table summarises procurement process, contract type and cost thresholds with delegated financial authorities still providing final approvals.

Value per contract $	Costs less than $50,000	Costs between $50,000 – 200,000	Costs over $200,000
Procurement Plan Needed	No – email approval by DFA manager is required.	Yes	Yes
Procurement Approach	No competitive process is required. However, in some circumstances competition (closed sourcing process) will help achieve best value for money.	A closed competitive process (with a preference of minimum of three known suppliers) may be used. If only two suppliers are available Group Manager approval is required with endorsement from the Procurement Manager. An open competitive process may be used.	A competitive (open sourcing) process must be used.
Probity audit	Follow procurement process	Follow procurement process	External audit required for procurements over $5m or where procurement risks are high enough to warrant an audit
Professional Services Contract Type	Can be by purchase order, SFA, Contract for Services All NZTA funded professional services contracts up to and including $100,000 may direct appoint	Conditions of Contract for Consultancy Services (and Consultancy Service Order if available) All NZTA funded professional services contracts between $100,000 and	Conditions of Contract for Consultancy Services (and Consultancy Service Order if available)

		$200,000 may use a closed sourcing process. All NZTA funded professional services contracts above $200,000 must use an open sourcing process.	
Construction Services Contract Type	Can be by Contract for Services or Minor works contracts All NZTA funded construction contracts up to and including $100,000 may direct appoint	NZS 3910/3916/3917 All NZTA funded construction contracts above $200,000 must use an open sourcing process.	NZS 3910/3916/3917

No orders shall be placed, or tenders or quotations accepted unless the following three criteria are met:

- Financial approval for those goods or services has been provided for in the current budget,
- Financial approval has been provided for by Council resolution,
- The signatory has been delegated the required financial authority under the Financial delegations policy

The method of purchasing goods and services shall be dependent on the estimate of the costs to be incurred in accordance with the following schedule, but always to ensure the Council receives the best value for money.

Choose the contract

Buller District Council request three main type of contracts; minor contracts, professional services and construction services. The following contract documents are commonly used at Buller District Council:

- Professional services (e.g. planning, design, feasibility)
  - ACENZ– Short Form Agreement for Consultant Engagement
  - CCCS – Conditions of Contract for Consultancy Services
  - Independent services contract
- Construction, maintenance and operations services
  - NZS3910:2013 – Conditions of Contract for Building and Civil Engineering – Construction
  - NZS3916:2013 – Conditions of Contract for Building and Civil Engineering – Design and Construct
  - NZS3917:2013 – Conditions of Contract for Building and Civil Engineering – Fixed Term
  - Minor works construction contract

Other contract types can be used by approval through the procurement plan.

Contract Documents

Each contract will require different documents depending on the complexity of the work. Examples of documents within the contract are:

- Designs
- Safety in Design register (for construction contracts)
- Preliminary and General specifications
- Technical specifications
- Schedule of price/fee estimates (in excel for major contracts)
- Any investigations or relevant information e.g. feasibility studies, geotechnical assessments

Schedule of Prices/Fee estimates

The purpose of the Schedule of Prices is to identify or locate the items of work and is not intended to be a repeat of the Specification. It is used to:

- Provide such information as to enable tenders to be prepared efficiently and accurately
- Provide prices for the proper and convenient comparison and evaluation of tenders
- Form a basis for accurate project planning
- Calculating progress payments
- Value variations, if needed.

Items of work **should** be grouped together in their respective asset categories in the Schedule, generally in accordance with the respective trade, and the materials and labour related to the finished work.

Provisional items may be inserted in the Schedule to cover possible variations or additions to the contract work. The purpose of these items is to obtain rates for such work should it be required. In lump sum contracts where the quantity of work that will be required is unknown, provisional quantities may be nominated for the purposes of obtaining unit prices. Such quantities **should** be described as “provisional” and subject to measurement and adjustment upon completion of the work.

Disbursements are supplementary costs which advisers may incur on their client’s behalf, and can include, among other things accommodation, daily food allowance, milage costs. These are to be separate from the hourly rate and agreed as part of the fee estimate or schedule of prices in advance.

Basis of Payment

A Basis of Payment outlines how and when the specific items or work from the Schedule of Prices are to be paid. A Basis of Payment **should** be included in all cases. It is important to choose the right contract payment type to ensure procurement success. The objective, when selecting a contract payment type, is to have a reasonable distribution of risk between BDC and the supplier.

Basis of Payment	Description	Advantages	Disadvantages
Fixed Price/ Lump Sum	This is the most common form of contract. This method is used when the scope of works is well defined, and the level of cost certainty is commercially acceptable. One price is agreed on for all the work. Council has the least cost risk because the risk of higher costs is borne by the supplier. Therefore, the supplier is most concerned with the scope of work in this type of contract.	Less work for the contract manager to manage The supplier has a strong incentive to control costs The total cost is known at the start.	The supplier may underprice the work and try to make up profits on change or variation orders The supplier may not complete some of the scopes of work if they begin to lose money Defining the scope and deliverable takes signification effort to ensure that the potential for changes or variations is reduced or minimised The supplier may add significate costs into the price for their exposure to risk There is less incentive for a contractor to minimise schedule duration that is the case for reimbursable contracts. Minimised quality management activities (to reduce costs) may result in quality problems Re-negotiation of the price may occur as fixed-price contractors are reluctant to proceed with any work associated with a change request before resolving the cost of the changes. This may have a negative impact on the schedule of the project Be careful when talking to suppliers to avoid inadvertently making a verbal promise to purchase from that supplier
Measure and Value/Time and Materials/Unit Price/Time Written	This is a combination of fixed price and cost reimbursement and is a common method of payment for civil works contracts. It should be used to schedule identifiable phases of the work that are measurable,	When the work needs to start quickly. It is quick to establish. Shared gains and losses as final prices are unknown.	The supplier's profit is in every hour billed Supplier has little incentive to control costs Appropriate only for small projects Requires day to day supervision.

	such as earthworks volumes, base course volumes, seal areas etc. The time and materials component is generally applied to dayworks where scheduled items are not applicable. Price is on a per hour or per item basis and has elements of a fixed price contract (fixed price per hour or item) and a cost reimbursable contract (in the material costs and the fact that the total cost is unknown). The contractor is paid for in actual labour hours at hourly rates plus materials at cost. The rates typically include direct and indirect costs and profit. It is usually used for small value works. The Council bears most of the cost risk, this is management by an agreed maximum value cap that is monitored by through progress payments either by dollar value or percentage. The time and materials/unit price component is appropriate when the Council wants to be more in control, when the scope of work is not known or is incomplete, as well as for short-term services. This is appropriate when work can be well defined, but the total quantities are uncertain. It can be used in an emergency to begin work immediately when a scope of work is not written or completed. It is not suitable for long-term projects as there is little incentive for the supplier to complete the work.		

Specifications or Scope of Services

The Specification is the written technical description of the work, which is complementary to (but not conflicting with) the pictorial descriptions and notes given on the drawings. When writing the Specification it is customary to divide the work into distinct sections or trades (e.g. scope of work, list of drawings, preliminaries, drainage, pavements, concrete, joinery, fencing etc.) with clauses written to cover the materials to be used, and if necessary the method of work to be used, the tests to be satisfied, how defective work should be remedied, and the method of measurement and payment. Reference can be made to other documents (such as New Zealand Standards), but this should not be done indiscriminately.

The Specification is an integral part of the design, as are the drawings. This is often overlooked with the result that inappropriate or outmoded specifications are selected or replaced by a few brief notes on the drawings. Sufficient time should be spent specifying the quality of the work, as it is not possible to price, build, test or measure the work correctly unless this is done.

A Scope of services is the description of the goods or services, specifically identifying what is within scope of the procurement activity and what is out of scope. This helps to prevent misunderstandings and disputes by providing a common picture of the contract's requirements.

Drafting good scope descriptions and specifications requires collaboration from all parties to the contract.

Special Conditions of Contract

The special conditions identify the general conditions of contract with what the Council requires and are restricted to modifications and qualifications of the general conditions such as type of contract, completion date, bond and insurance requirements.

Contract Insurances

Insurance is one way to transfer financial risks in a project. Certificates of Insurance are required to provide proof of insurance cover arranged by the contractor. It is important that the contract manager understands the conditions requested in the Certificates of Insurance and the reasons for them. Officers should be aware that policies of insurance are contracts in their own right and they do not cover all risks. The decision as to whether insurance of the works is required is at the discretion of the Contract Manager however, consideration should be given to require proof of insurance where a small value contract affecting high-value existing works carries large risks (e.g. cleaning contracts).

Consideration is needed on the duration that insurance certificate should be in place for. For example; for large construction contracts or services contracts, insurance sometimes is required to remain in place for 6 years after Practical Completion Certificate

Below are the main types of covers that may be appropriate to request of Contractors:

- **Contract Works** To cover construction projects/contract works (including both new construction and alterations/additions to existing property) against physical loss or damage. The policy would generally cover the value of the project (including any materials which form part of the project). Generally the Principal holds the Contract Works insurance as: the contract codes this cost back to the Principal usually at an inflated rate, and if the contractor has issues onsite the Principal can more easily transfer the insurance to include another/alternative contractor.
- **Public Liability/General Liability/Third Party Liability/Products Liability** This policy covers legal liability for damage or injury happening in connection with the business. The policy covers liability arising from employee or business actions and includes liability relating or arising from products sold or manufactured. Cover includes associated defence costs to defend an allegation and is likely to include cover for liability associated with products and

liability as a tenant and property owner. For construction contracts a minimum amount of $1,000,000 is required.

- Some contractors General Liability policies can come with sub-limited values set against things like Vibration/Removal of Support/Underground Services. Thus, the contractor may be able to evidence, say, 10M of cover, but their policy could then be sub-limited to $250k (as an example) for Vibration damage.
- If Vibration/Removal of Support/Underground services type losses could be a significant part of the works being undertaken, then highlight in the contract that there can be no sub-limit for these types of losses. For example, contractor conducts earthmoving works next to a building and causes 'removal of support' and the building collapses; the contractors General/Public Liability cover may be limited to $250,000 and could lead to a balance sheet issue for the contractor (and possibly the council if the contractor consequently liquidates).

- **Professional Indemnity** To cover legal liability incurred by giving negligent advice or through a breach of professional duty. Cover includes associated defence costs. The minimum amount should be five times the contract value.
- **Plant** This may not be appropriate for every job, but generally where large value plant is used in construction, Principals like to see that insurance exists for such items of plant/equipment in particular items which are critical to the performance of the works, or where those items of Plant have a current market value greater than $20,000. This is required so that, if there was a loss to such plant, there will be an insurance response rather than a balance sheet impact to the contractor (the concern being that the contractor can't afford the loss and enters liquidation). Most 391*x* contracts require insurance for items of plant over $20,000; sometimes higher on a case-by-case basis.
- **Motor Vehicle** Most Public/General Liability policies won't cover liability arising from the use of a vehicle, and thus liability for use of a vehicle ought to be considered (for example, contractor loses control of a heavy truck close to the project site and causes considerable impact damage to nearby property). Most contractors ought to hold at least $5m at a minimum, and this cover is usually automatically included in a contractors motor vehicle insurance policy.

Key Performance Indicators

Key Performance Indicators **should** be included with each Contract. Examples of Key Performance Indicators include:

Aspect	Specification	Period of Measurement
Delivery	100% of goods arrive on time to the correct delivery address	Monthly
Goods	100% of goods meet the requirements of this agreement	Monthly
Services	100% of services meet the requirements of this agreement	Monthly
Reporting	100% of reports arrive on time	Monthly
Reporting	100% of reports meet requirements of this agreement	Monthly

Reporting	Claims are submitted on time and accurately	Monthly
Reporting	Data is on time, in the format requested and accurately	Monthly
Reporting	Environment compliance is reported on throughout the contract	Monthly
Relationship Management	All issues communicated by the Supplier Representative to the BDC Contract Manager as soon as possible.	6 monthly
Relationship Management	The Supplier takes all reasonable steps to resolve 100% of issues communicated by BDC Contract Manager to the Supplier Representative and requiring action.	6 monthly
Health and Safety	All health and safety events are notified to the BDC Contract Manager within 24 hours	Monthly
Health and Safety	All WorkSafe Notifiable health and safety events are notified to the BDC Contract Manager within 4 hours	Monthly
As-Builts	All as-builts are submitted prior to practical completion to the BDC Contract Manager	Prior to practical completion

Contracts Register

Buller District Council maintains a contracts register in SharePoint where all procurement and contract documentation is to be stored with restricted access.

Health and Safety

The relationship between the Council and contractors is one of equal footing, each with overlapping duties, and each with a primary duty of care. Workers of contractors are essentially workers of the Council.

The steps available to the Council depend on the extent to which it has influence and control over the work. In almost all situations the contractor is in a better position to have the greater influence and control (except perhaps when the Council and contractor are working closely together on the job) so they will be expected to take most of the direct responsibility. However, the Council, through the processes outlined in this document, is in a strong position to influence the health and safety of other PCBUs, and the workers.

In relation to the duties of overlapping PCBUs ask the question “who is in the best position to do what?”

Consult, Collaborate, Coordinate

In all situations where the Council is involved in contracting work, there will be two or more PCBUs involved, i.e. the Council, the Contractor and any Subcontractors. Therefore, there could be multiple PCBUs. Each PCBU must therefore, as far as is reasonably practicable, “consult, collaborate with, and co-ordinate” activities with all other PCBUs who have a duty in relation to that work.

Consult	Everyone associated with the work has a shared understanding of what the risks are, which workers are affected and how the risks will be controlled.

	The exchange of information will allow the duty holders to work together to plan and manage health and safety.
Collaborate	Involves implementing arrangements in accordance with any agreements reached during consultation with the other duty holder and involve not acting in a way that may compromise what they are doing for health and safety.
Coordinate	Requires duty holders to work together so that each person can meet their duty of care effectively without leaving any gaps in health and safety protection. Plan and organise activities together with the other duty holders. This will include making sure that the measures put in place work effectively together to control the risks.

All contract processes, whether big or small will revolve around the contractor management cycle for health and safety. The steps taken at each part will depend entirely on the health and safety risk involved in the work.

For example, the steps expected of the Council for minor servicing contracts will be different from those expected of the Council for construction of a major visitor facility. The servicing contractor may only require a brief exchange of relevant health and safety information while the steps expected of the Council for a major visitor facility contract or subcontract will be extensive.

Each of these parts is set out in following sections.

Primary Duty of Care

A Person Conducting a Business or Undertaking (PCBU) has a primary duty of care to ensure the health and safety of workers and others affected by the work carried out by the PCBU. The Council is a PCBU and has clear duties toward others, whether those others are a PCBU or not. The scope of those duties will depend on each situation or relationship and then on the ability the Council to influence or control that situation.

The primary duty of care requires all PCBUs is to ensure, so far as is reasonably practicable:

- That the health and safety of its workers or those workers who are influenced or directed by the PCBU (for example its own workers and contractors/sub-contractors) are managed,
- That the health and safety of other people is not put at risk from work carried out as part of the conduct of the business or undertaking (for example the public).

Prequalification for NZS 3910/3916/3917 Contracts

All contractors shall be pre-Qualified before they work on any Council controlled site or project site, except for emergency works. There are two accepted methods of Pre-Qualification:

- *Internal* - The completion and approval of Council's Pre-Qualification form and submitted health and safety documents (valid for 2 years)
- *External* - A current score of 75 or above in SiteWise NZ's accreditation system

Once Pre-Qualification has been established, a representative of the Contractor must sign Council's Safety Agreement and be included in the contract file.

4. SOURCING

The procurement policy outlines the underpinning rules for procurement for Council staff to follow. However, other Council arrangements that work within the procurement policy include:

Council Controlled Organisation (CCO)

The purpose and objectives of the BDC CCO(s) are set out in in the Long-Term Plan and reported on annually. Any engagement between the Council and CCO(s) should be managed appropriately with consideration for both Value for Money and public perceptions of fairness.

Council may directly source services from a CCO provided this is consistent with its procurement policy, and the principles that govern the use of all public funds[1]. Regardless of the procurement approach adopted, it is essential that both parties follow due process and procurement rules.

In a multi-party procurement process, CCO(s) should be treated in the same manner as any other contractor or externally engaged party. This includes any sharing of information or engagement between the Council and CCO(s) during an active procurement.

Exemptions for engaging BDC Council Controlled Organisation (CCO)

As a CCO is considered a strategic asset, the Council can include considerations such as the benefit of a strong, financially sound CCO, (e.g. dividend payments back to Council) and the potential impact on other contracts held by the CCO when deciding whether to direct source to the CCO or run an open market procurement.

The Council may grant for the direct award of work to the CCO(s) under the following conditions:

- the work is aligned with the CCO's core functions or mandates, and
- the CCO has the necessary expertise, capacity, and capability to deliver the required services or outcomes, and
- the Council can demonstrate Value for Money from doing so, and
- the rationale is approved by the Procurement Manager and documented as required in the table below.

Total Value	Approach
Below $50,000	Direct awards to CCOs can be made where the value of work is below $50,000, without formal documentation.

$50,000 - $200,000	For any direct award where the value of work between $50,000 - $200,000, this must be documented, with clear rationale, endorse by the Procurement Manager and approved by the relevant Delegated Financial Authority to ensure it aligns with the overall goals of the procurement strategy, legal compliance, and value-for-money principles.
	
	This includes but not limited to providing written confirmation that the procurement meets the above conditions as well as written justification which includes
	
	• expected benefits of direct engagement, such as cost savings, efficiency, or expertise, and
	• evidence that value for money is being achieved. This may include:
	  ○ A Section 17a Review
	  ○ Benchmarking against other local suppliers, or Councils

$200,000 or more	For any direct award where the value of work is $200,000 or more, this must be documented, with clear rationale, and endorsed by the Procurement Manager to ensure it aligns with the overall goals of the procurement strategy, legal compliance, and value-for-money principles as described above.

[1] 2015 Auditor-General Paper: Governance and accountability of council-controlled organisation

	The final approval sits with Council.

Secondary Panels/Supplier Panels

For regular purchases of specific type of good, service or works, the Council will set up a panel of suppliers. The panel of suppliers will be reviewed two-yearly.

A panel of suppliers is a list of suppliers who have been pre-approved by Council and who have agreed to the terms and conditions for supply. Before engaging a preferred supplier, it must be confirmed that the supplier has been tested against the market within the last two years.

Council manages two professional services supplier panels. Information on these can be found under Professional services panel on SharePoint. The two services provided for both panels are:

- **Panel A** services are Project and programme management, Engineer to Contract, Engineer's Representative, Design (engineering and architecture).
- **Panel B** services are Procurement Advice, Tender Evaluation Team member and Probity Auditor.

Establishing any new panel of suppliers will follow the procedures set out in the Council procurement manual.

Emergency Procedures

In Civil Defence Emergencies, the standard procurement procedures may be suspended as described in the Procurement Policy.

Supplier Briefings

If a full procurement process is not required to be undertaken, a briefing **should** be written to outline the requirements for the procurement exercise. As a minimum the brief **should** include:

- Key Requirements:
    - What does the Council want?
    - Detail the timescales
    - Technical specifications
    - Statement of work
    - Budget
- Outputs
    - E.g. site landscaping, temporary staff
- Contract management
    - How will the contract be managed when it goes live
    - How will quality or service levels be measured, recorded and maintained?

Guidelines on the briefing and engagement for consulting engineer services can be found here.

Conflict of Interest

Principle 5 of the BDC Procurement Policy 'play by the rules' says to 'Make sure everyone involved in the process acts responsibly, lawfully and with integrity. Stay impartial - identify and manage conflicts of interest'. Members of any tender evaluation team must not accept gifts of any values during a tender process. All contract managers and voting members of a procurement team are to have an approved Conflict of Interest Form with a Management Plan for any declared conflicts.

For any tender evaluation team members that are Contractors to Council, the Procurement Manager must sign the Conflict of Interest form.

5. FULL PROCUREMENT PROCESS

Drafting a Procurement Plan

A procurement plan documents the justification for the procurement, a description of the goods/services/works required, and the sourcing approach - how it will be managed, and the contract implemented. The purpose of a procurement plan is to:

- Assess the market, risks and
- If needed, outline an operational strategy for efficiently procuring what is required (e.g. categorisation of a large programme of work)
- Based on the market research, risks and strategy, identify the best process to source a supplier to supply the goods/services/works required,
- Clarify roles and responsibilities,
- Ensure the process is well managed and well documented to support transparency and accountability.

Procurement planning must address all the elements that make up the requirements, including any sustainability impacts and health and safety risks that are associated with the goods/services/works required.

The scale and scope of any research, analysis and planning, and the detail required in a procurement plan should be proportionate to the risk, value and complexity of the procurement.

Once the appropriate DFA approval to go ahead with the procurement has been received, draft the RFx document using the relevant template.

Evaluation Criteria – External Funding

BDC need to evaluate tender submissions in accordance with the approved approach within the procurement plan. Additionally, some funding partners such as NZTA have their own detailed evaluation process and criteria which are to be followed in line with funding agreements. NZTA rules in particular override any other existing rules or policies within BDC.

Copies of other Procurement Guidelines are linked below:

- NZTA - Procurement manual - Amendment 6 - April 2022 (nzta.govt.nz)
- MBIE - Templates | New Zealand Government Procurement and Property
- New Zealand Government Procurement - Government Procurement Rules - 5th edition

Valid exemptions from open advertising and using direct negotiation are:

a) Emergency: A genuine emergency such as a civil defence declared emergency. Urgent situations that are created by Council, such as lack of advance planning, do not constitute an emergency.
b) Following an open tender: Council may use a closed competitive process or direct source process to procure goods, services and works if:
    a. it has openly advertised the contract opportunity in the last 12 months, and
    b. it has not substantially changed the core procurement requirements, and
    c. the first time the opportunity was advertised it:
        i. did not receive any responses, or
        ii. did not receive any responses that conformed with or met the requirements (including quantity), or

iii. received responses from suppliers who it has reasonable grounds to believe have colluded, and no other responses conformed with or met the requirements.

c) Only one supplier: If the goods, services or works can only be supplied by one supplier and there is no reasonable alternative or substitute because:
   a. for technical reasons there is no real competition, or
   b. the procurement relates to the acquisition of intellectual property or rights to intellectual property, (including patents or copyrights) or other exclusive rights, or
   c. the procurement is for a work of public art.
d) Direct Award to CCO: The Council may grant a direct award to a CCO under the following conditions:
   a. The work aligns with the CCO's core functions or mandates.
   b. The CCO has the necessary expertise, capacity, and capability to deliver the required services or outcomes.
   c. The Council can demonstrate value for money from the direct award.
e) Additional goods, services or works: Goods, services or works additional to the original requirements that are necessary for complete delivery of a project. This Rule applies where two of the following conditions are met:
   a. the original contract was openly advertised, or
   b. a change of supplier cannot be made for economic or technical reasons, and
   c. a change of supplier would cause significant inconvenience or substantial duplication of costs for Council.
f) Exceptionally advantageous conditions: A one-time event such as a sale by public auction or a sale resulting from liquidation, bankruptcy or receivership. For purchases made in exceptionally advantageous conditions that only arise in the very short term and at the discretion of the Chief Executive. This exemption does not cover routine purchases from regular suppliers.
g) Unsolicited Proposals and/or innovative approaches may also provide valid exemptions at times however Value for Money must be considered regardless. For example, a contractor proposes an approach to repairs and the outcome of a procurement process will likely result in the same approach and cost will not require open advertising as the end outcome will be the same.
h) Where an independent Local Government act 2002, Section 17A review has been undertaken with a recommended outcome that is adopted by Council,
i) Where one supplier has, over a period of time, developed such an intimate knowledge of an outdated or complex system that the agency can reasonably claim that other suppliers would not have a similar level of readily available knowledge.

Approval for Exemption

All procurement exemptions from the policy requires CE approval through a procurement plan after the Delegated Financial Authority has approved the procurement spend. The procurement plan must detail the justification on how the circumstances have occurred that requires entering into exclusive negotiations including how the use of direct negotiation may enable Council to achieve its identified objectives, how competition will not deliver Value for Money and how the direct negotiation will not preclude other parties from an opportunity to do business with Council.

Poor planning or avoiding competition will not be accepted as a justification for direct negotiations. The steps for direction negotiations are:

1) **Undertake market research** – Review supplier market to determine potential suppliers with, capability, capacity and skills in activities of the same or similar nature
2) **Identify preferred supplier** – Select on the basis of the supplier that offers the best overall value in delivery the scope and requirements

3) **Negotiate contract terms** – Negotiate with the preferred supplier and establish an agreement that is designed to obtain the best Value for Money

Records for the negotiation must be kept in the Contract file. The documented approval with the rationale for the decision must be approved before approaching the supplier/s.

Exemption requests that are estimated to be above the CE's delegated financial authority levels will require approval through a Council resolution.

Choose the RFx

To identify the supplier that can best meet the needs, a document that describes the requirements and invites suppliers to respond with a formal written submission is required. This document is called the RFx document. 'RFx' is a generic term that refers to the following types of documentation which can be used to request suppliers' submissions in a sourcing process with the following being commonly used at BDC:

- Advance notice
    - The advance notice is for procurements that are in their final stage of approval and will go ahead. It gives suppliers an early indication of a procurement opportunity and should be published before posting a notice of procurement (ROI, RFQ, RFP) on the NZGP platform. An advance notice does not replace a RFx notice of procurement. Use an advance notice when suppliers need to prepare for a procurement due to:
        - the requirements being complex
        - there is an opportunity for suppliers to collaborate
        - suppliers need time to explore sub-contractors in the supply chain
        - there is an opportunity for innovation and new ideas.
- Request for Quote
    - A formal means of seeking quotations from the market for goods or services. RFQ is a closed direct approach to the market, to at least three suppliers whom we believe may be able to provide the goods. An RFQ is best used where price is the main selection criteria, the requirement is for "stock standard" or "off the shelf" goods or services where the risk is low.
    - RFQ's **may** go through the NZGP platform. If the procurement lead chooses to email this directly through the procurement@bdc.govt.nz email, a communications file should be kept within the contract register.
- Request for Tender
    - A formal means of seeking tenders from the market to provide goods, services or works where Council's specifications or requirements are clearly defined and there is little room for flexibility or innovation. This method is often used for construction projects. Price normally plays a significant role within an RFT.
- Request for Proposal
    - A formal means of seeking proposals from the market for goods, services or works where the Council is open to supplier innovation and seeks a solution to a problem or process. Use an RFP when the outcomes are known, but it is unclear how best they can be achieved.
- Registration of interest (ROI)
    - Also known as an Expression of interest (EOI), an ROI is an optional first stage in a multi-stage procurement process in that it is used to identify suppliers interested in, and capable of, delivering the required goods or services in order to minimise costs to all parties. Potential suppliers are asked to provide information on their capability to do the work. It is usually the first stage of a multi-stage tender process. Information from the respondents

should be supplied in a clear format and be limited to a few pages. Price information is generally not requested at the ROI stage. The only time indicative price information might be requested would be where the project had a limited budget and suppliers with solutions over the budget would not be considered.

The document the procurement lead will prepare will depend on whether the request is a proposal, tender, quote or registrations of interest.

The RFx document must explain how submissions will be evaluated. Unless price is the only criterion, an indication of the relative importance of each evaluation criteria must be included. This means that it is essential to agree what the evaluation methodology will be before the document is finalised. If there is a procurement plan this will determine the evaluation model.

Any additional or background information that a participant may need to prepare its submission must be included in the RFx document or as attachments to the RFx. If other documents cannot be made available with the RFX, it must be made clear how suppliers can obtain a copy (e.g. by requesting a hard copy).

BDC has standard templates for each RFx document which must be used. The templates contain drafting guidance and instructions for staff members.

If the RFx is an RFQ, RFT or RFP, ensure that the correct form of contract is included with the RFx document.

Documents to go Alongside the RFx

- Draft Contract
- Designs
- Safety in Design Register (for construction contracts)
- Preliminary and General specifications
- Technical Specifications
- Scope of Services
- Schedule of price (in excel)
- Any investigations or relevant information e.g. feasibility studies, geotechnical assessments

Single Stage Procurement

In a single stage procurement, an RFQ, RFP or RFT is issued to the market without a pre-qualification process and all responses received as a result of the RFQ, RFP or RFT are evaluated.

Multi-Stage Procurement

A multi-stage procurement allows for the pre-qualification of suppliers or to establish a list of potential suppliers. This will be based on an initial assessment of their capacity to fulfil the potential contract by inviting suppliers to participate in an EOI or ROI. These processes are used to provide a shortlist of suitable suppliers to whom an RFP or an RFT can be offered. A multi-stage process **should** be used where the market is large. It may also be worth considering using a multistage process if the Council is not sure about the state of competition in the market.

The multi-stage process saves non-suitable suppliers the costs associated with the tender or proposal process. However, it is a time-consuming process and therefore also costly to the Council. This method can be used where the market is large and when it is beneficial to reduce the cost of the competitive process by restricting the issue of formal tenders or proposals to those suppliers

with demonstrated capability. It also can be used where the goods or services being procured are complex and difficult to specify.

Evaluation Matrix

Before the evaluation process starts, decide which evaluation methodology to use. The matrix reflects the agreed evaluation model and is used to record and consolidate ratings and comments and help form an overall assessment of the submissions received. The three main evaluation models used at the BDC are:

- Lowest Price – if the procurement is very simple and price is the most important factor
- Weighted-Attribute – if the criteria have different levels of importance
- Price Quality Method (PQM) – for construction contracts aims to establish value for money in the tender assessment process

Defining value for money in relation to procurement

In the context of procurement, value for money has been defined as:

- 'the best available outcome for the money spent in procuring the agency's needs' (Australia New Zealand Government Procurement Agreement)
- the 'best possible outcome for the total cost of ownership' (the guidance provided by the OAG)

The above definitions are underpinned by a number of common concepts:

- Benefits derived from procurement-related activities can be maintained or enhanced through the procurement process.
- Cost alone is not a reliable indicator of value for money.
- Economic, social and environmental costs and benefits inform the procurement whole-of-life value assessment.

Tender Attributes - Preconditions

Preconditions, sometimes called prequalifying criteria, are prerequisite requirements that must be met. The purpose of preconditions is to eliminate suppliers who do not have the minimum capacity or capability to deliver the contract, not to limit market competition.

Preconditions will be stated in such a way that it can be easily determined whether the supplier meets or does not meet the precondition. Failure to fully meet any precondition will result in the suppliers' offer being rejected and removed from any further evaluation.

For Crown funded activities including NZTA, Council must include only essential pre-conditions such as:

- Legal capacity
- Financial capacity
- Commercial or operational capacity or capability to deliver
- Appropriate technical skills or expertise or relevant experience

Tender Attributes – Broader Outcomes/Economic Benefits

Local suppliers are defined as businesses owned, operated and located within the Buller district boundaries that ensures that the economic benefits directly support the local economy.

Secondary local benefits include businesses that source goods and services predominantly from the Buller District.

Tender Attributes – Non-Price Attributes

Examples of non-price attributes for supplier selection includes:

Specification	Period of measurement
Relevant skills	The competence of the personnel that the supplier proposes to use in areas relevant to the outputs being purchased.
Relevant experience	The supplier's record of completing similar types of work.
Methodology	The procedures the supplier proposes to use to achieve the specified end result.
Health and Safety	The ability of the supplier to meet the required Health and Safety standards.
Broader Outcomes/Economic Benefits	The supplier can demonstrate how they promote and contribute to the Buller District community/businesses.
Track record	The supplier's record of delivering works or services to the quality standards required, on time and within budget.
References	Any work completed for Buller District Council within the last five years to be identified for a reference check.
Capability	The supplier's capability in area relevant to the outputs being purchased.
Resources	The equipment, including facilities and intellectual property that the supplier proposes to use to deliver the outputs.
Financial Viability	The supplier's ability to access the financial resources required to deliver the outputs to be purchased.

The New Zealand Government Procurement Rules (NZGP) version 5 rule 8 involves Economic Benefit which looks to recognise the importance of considering the economic benefit of procurements to the New Zealand economy. When procuring under the NZGP rules, key points around this rule are:

- agencies **must** consider opportunities to deliver economic benefit to New Zealand
- ensure their expectations are proportionate to the size, risk, complexity and value of the procurement opportunity
- include a minimum weighting of 10 percent for evaluation purposes for economic benefits in a procurement above $100,000 ($200,000 for state highways)
- Agencies are expected to award contracts below these thresholds to New Zealand businesses with the capability and capacity to deliver, unless there is good reason not to.

If any criteria has a score that removes a submission from the assessment with no other criteria assessed after this point, this process is to be disclosed to all respondents in the RFx document.

Procurement Officer to Publish RFx Document on NZGP platform

For either an open sourcing or closed sourcing process, the RFx document is to be published on the New Zealand Government Procurement platform – currently this is the Government Electronic Tender Website (GETS): http://www.gets.govt.nz

Send the RFx document and any other supporting information to the Procurement Officer to be published on the NZGP platform. If other supporting documents cannot be made available on the

NZGP platform, the NZGP platform notice must state how suppliers can obtain a copy (e.g. by requesting a hard copy).

The contact name when publishing the RFx document on the NZGP platform will be "The Procurement Officer" who will coordinate responses to any queries while the opportunity is advertised on the NZGP platform.

Opportunity to access importance

The opportunity to access information is more important than a supplier accessing the information. Access to information is managed by Council through the NZGP platform.

Any previous work done on a procurement by a potential supplier (e.g. business case development) needs the risk to be notified to potential suppliers through the market documents alongside the strategies that Council have put in place for a fair opportunity for all (e.g. all documentation has been provided).

Response Timeframes

The minimum period an RFT, ROI or RFP can be advertised is 20 clear business days. The minimum period an RFQ can be advertised is 15 clear business days. The minimum time periods apply to both open and closed sourcing processes.

Working days are days when New Zealand government agencies and suppliers are normally open. It excludes Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day.

The time participants are given to respond to an opportunity depends on the complexity of the requirement and the length of time they will need to develop and submit their submissions. During planning, consider if more time will be required for participants to:

- obtain the full RFx document
- read and analyse the documents
- seek clarification, if required
- prepare pricing information
- develop and submit a responsive submission
- have its submission authorised, and
- arrange for the submission to be delivered on time.

Avoid publishing contract opportunities on the NZGP platform right before Christmas or in early January. For contracts above $500,000 Council must give their approval prior to the contract being awarded, timeframes must allow time for Council approval after the tender has closed.

Manage any Changes

The process described in the RFx document must be followed (the rules, evaluation process and criteria). The process followed should not deviate from the plan, as this can affect the integrity of the process and may result in a legal challenge.

If, due to unforeseen circumstances, an aspect of the process or methodology is to be changed, all potential participants must be notified and sufficient time given to respond to the change being made and ensure that one participant does not gain an advantage over another. This may mean extending the deadline for responses or allowing suppliers who have already submitted their responses a fair opportunity to change their responses.

All changes must be notified via a Notice to Tenderers and the process for managing common changes that can occur during sourcing processes is described below.

Extensions to Deadlines

Any extension to a closing time or date in a sourcing process must only be for specific and extenuating circumstances, which must be recorded in writing.

The procurement lead and procurement officer are to notify all participants of the extension to the closing time or date least 5 working days before the original closing time and date, where possible.

Publish any changes on the NZGP platform website if the opportunity was advertised on the NZGP platform.

Cancelling or Suspending a Sourcing Process

If a material or significant issue emerges during a sourcing process, it may be suspended or cancelled.

Examples of where a sourcing process may be suspended or cancelled are:

- All the submissions received are non-compliant or unaffordable (i.e. they do not meet the essential requirements and cannot be considered).
- There is evidence of collusion between participants.
- There has been a significant change to the requirements for the goods/services/works.
- A significant probity issue arises during the process that creates a risk of legal action.

A procurement must not be cancelled to avoid using the appropriate procurement approach.

Handle Questions and Answers

A single point of contact must be listed in the RFx document. Any enquiries must be directed, in writing, via the NZGP platform. Suppliers who make verbal queries (e.g. phone enquiries) must be asked to submit their question in writing via the NZGP platform before a response is provided.

If enquiries are directed to other staff members (who are not the nominated contact for the RFx), they must be forwarded directly to the nominated contact, who is responsible for replying to them. This ensures that all communications are managed, and potential participants are treated fairly and equally throughout the process.

After the RFx is published, a period is allowed for potential participants to ask questions or request further information.

Respond to any questions from potential participants promptly and in writing. Promptly means without delay; good practice is within 3 working days.

If a question is unable to be respond promptly to, the Procurement Lead is to consider extending the deadline for responses. If the deadline is to be extended, the Procurement Officer is to extend the dates on the NZGP platform.

If the question requests more information than is published in the RFx, and the answer provides information that is relevant and valuable to other participants in the preparation of their submissions, then the question and answer must be made available to all participants so that no participant gains an unfair advantage.

Questions and their answers will be published via the NZGP platform in a notice (usually referred to as an ‘Addendum’).

For open sourcing processes advertised on the NZGP platform, the Procurement Officer will publish the notice, along with any other related supplementary information, on the NZGP platform.

For closed sourcing processes, send the notice, along with any other supplementary information, to all the participants.

Ensure that in the notices, the identity of suppliers that submitted questions is not disclosed.

If the nature of the query relates to information that is commercially sensitive the onus is on the supplier to make this clear. Any information that is commercially sensitive must be protected and shouldn't be released in any response or supplementary information.

A deadline for submitting questions must be made clear in the RFx document. The deadline should be at least 5 working days before the closing date to allow potential participants to take any new information into account in their responses prior to the deadline for submissions.

Dealing with Media Enquiries

Prior to any responses to media enquires the Procurement lead is to get advice from the media team using the Media Enquires page.

Supplier Briefings and Site Visits

For an opportunity that is complex, new, unusual or strategically important to BDC, a supplier briefing may be held for all potential participants to attend. The briefing session can describe the requirements in more detail and allow suppliers to ask questions.

If a supplier briefing is held, it should be at least a week after the RFx document is published. Include information about the briefing in the RFx document and allow potential participants sufficient time to register and attend.

Briefing sessions must be noted. Ensure that all additional information - along with questions and answers asked at the briefing- is published on the NZGP platform following the session to ensure all potential participants have access to the same information.

Keep a register of all suppliers that attend the briefing.

Briefings are forums where all potential participants can attend. Do not hold individual meetings with suppliers as this can compromise the integrity and transparency of the process.

If the contract involves work on site, participants may wish to visit the site before the deadline for submissions. Suppliers can visit on their own, or the Procurement Lead can arrange a site visit. If a site visit is arranged, the participants must be notified through the NZGP platform of the time, date and location.

One on one detailed supplier briefings

Council allow one on one detailed supplier briefings with the following rules:

- The briefing slides and information provided must be the same
- Notes are to be combined and released under one Notice to tenderers as an addendum to the NZGP platform
- For any questions asked under commercial in confidence, Council will decide if it should be confidential.

Evaluation panel briefings

For complex procurements, evaluation panel briefings are to be held. These briefings are to cover the following at a minimum and notes are to shared with the panel following the briefing:

- Personal opinions are set aside during the process,
- Confidentially is to be maintained during the process,
- The first assessment must be on information provided in the submission, not on background knowledge. Any background knowledge is to be brought in later in the process during the identification of risks and planning of negotiation with the preferred supplier
- How to manage business as usual activities when an incumbent supplier is involved (e.g. keep contract meetings going while process is underway but can't discuss anything relating

to the procurement process. Record any gifts, requests for information and the outcomes of them)

Evaluation plan

For complex procurements, an evaluation plan will be drafted prior to the panel meeting and agreed by all panel members.

Receive and Log Submissions

The Procurement Officer is responsible for receiving and handling submissions from participants.

Security and confidentiality of information are of utmost importance during the procurement process. Keep all submissions in a secure place and protect any confidential information.

If conducting an open tender, the Procurement Officer will save soft copy submissions into SharePoint with permissions restricted as follows:

- Read access for members of the evaluation panel once the deadline has passed.

If conducting a closed tender, the Procurement Officer will save soft copy submissions into SharePoint with permissions restricted as follows:

- Read access for the contact person up until the deadline.
- Read access for members of the evaluation panel once the deadline has passed.

Do not open submissions until the deadline for receipt of submissions has passed.

Once submissions have been logged for a closed tender, send an email confirming receipt of submission to each participant.

Ensure that one original copy of each submission is kept securely stored throughout and following the process for audit and recordkeeping processes.

Late Submissions

Any late submission must be labelled with the time and date it arrived.

The Procurement Lead must not accept a late submission if:

- There is any risk of collusion on the part of the supplier.
- The supplier may have knowledge of the content of any other submission.
- It would be unfair to any other supplier to accept the late submission because the late supplier is given additional time to prepare its submission.
- The Procurement Lead must not penalise a supplier that submits a late response if the delay is solely BDC's fault.
- For Weighted Attributes and Price Quality Method, the tenders received on time have been circulated to the evaluation panel.

The decision and reason to accept a late submission must be documented and agreed by the evaluation panel.

If the Procurement Lead does not accept a late submission, return it unopened to the participant with a letter advising that it has not been accepted.

For Lowest Price Confirming method, the submission will be set aside by the Procurement Officer and excluded from the current evaluation process. A letter must be sent to the supplier explaining that;

- the submission is late and has been set aside with the offer that the supplier may choose to withdraw their offer at this stage if they wish

- the evaluation process for the remaining tenders will proceed accordingly.
- If the supplier does not wish to withdraw their tender, please note that the Council may still consider it should the evaluation process determine that the remaining submissions are not acceptable.

Non- Conforming tenders

If all received submissions are non-conforming, the evaluation panel may choose to waive the mandatory criteria if all panel members are in agreement, the waiver is applied in a constant way to all submissions and the justification behind the decision is recorded.

Alternative proposals

Council will accept alternative proposals only if a compliant tender/response is submitted by the RFx deadline. Submitters of alternative proposals (where alternative proposals are permitted) to specify how their alternative proposal differs from the outputs specified in detail in the RFx, and demonstrate how better value for money can be obtained through the alternative.

The steps for managing alternative tenders during the evaluation process are identified in the RFx document.

Council will not consider alternative proposals that:

a) are outside the scope or requirements of the RFx, or
b) vary the term of a term service contract

The Tender Evaluation Report must document decisions made in relation to the evaluation of alternative proposals.

Check Conflict of Interest Declarations

Once submissions have been received and logged, all evaluation panel members must submit their Conflict-of-Interest declarations against the suppliers which are up for evaluation and declare any conflicts that may have arisen.

If any conflict has arisen, record and manage this in accordance with the procedures set out in the Conflict of Interest Procedure.

Individual Assessments

When conducting an open tender, the Procurement Officer will distribute a copy of each submission to each member of the evaluation panel via SharePoint, along with a copy of the RFx document, questions and answers, any guidance and a blank assessment sheet.

If a two-envelope methodology is being used (where price is requested in separate sealed envelope), only the non-price parts of the submissions are distributed to the evaluation panel members. Keep price envelopes unopened and securely stored.

All evaluation panel members must individually assess each submission according to the evaluation methodology being followed. Comments and ratings are recorded on an individual assessment sheet. This ensures that each panel member has reviewed the submissions prior to the evaluation meeting, and that no one person can inappropriately influence the evaluation by being better prepared. Individual assessments must be saved in the Contract file.

For very simple, price-based evaluations, individual assessments may not be necessary. In these cases, the evaluation panel should meet and complete a team evaluation.

Evaluation Panel Meeting(s)

Once individual assessments have been completed, all ratings and comments are consolidated into the evaluation matrix.

The evaluation panel meets to agree on final ratings and comments for each submission and reach a decision on the preferred supplier.

Elected members must not be on the Evaluation panel.

For NZTA funded contracts requiring an evaluation panel, at least one member of the proposal evaluation team must:

- hold one of following: the National Certificate in Civil Engineering – Asset Management (Competitive Pricing Procedures), the National Certificate in Transport Agency Procurement Procedures or the New Zealand Certificate In Infrastructure Procurement Procedures, or
- hold another relevant qualification approved by Waka Kotahi, or
- is approved by Waka Kotahi as a proposal evaluator.

When procurement is funded by NZTA, the competence of the proposal evaluation team member who meets the requirements of above must be current to the satisfaction of Waka Kotahi.

If price has been requested in a separate envelope, open these envelopes once the non-price assessment has been completed. An overall assessment is then made.

Where a multi-stage evaluation process is being followed, or it is not possible to identify a preferred supplier without further clarification or information, draw up a shortlist. The Procurement Lead then takes shortlisted participants through a further phase of the evaluation typically involving clarification, presentations and due diligence, before a final recommendation is made.

It is essential that clear, succinct and comprehensive notes of all evaluation panel discussions and findings are taken.

Should the procurement be over a long period of time e.g. over 2 months, conflict of interests are to be checked at each evaluation panel meeting as a standing agenda item.

Clarification

Clarification of participants' submissions may be necessary where aspects of a submission are unclear.

Where clarification is required, the Procurement Lead must ensure that questions are for clarification only. The questions must not allow a participant to improve or materially change its offer.

Record the information gathered through clarification in writing.

Presentations

Where presentations are required as part of the evaluation process, participants must be treated fairly. This means that the Procurement Lead must:

- Ensure all participants have equal time to prepare for, and deliver, their presentation.
- Ensure that no participant is given the opportunity to materially change or improve their offer as part of the presentation.

Once further clarification/presentations have been concluded, re-convene the evaluation panel to review the assessments and agree on a preferred supplier.

Communications log

For complex procurement projects a log of communications is recommended. A log of the questions and answered will be provided by the procurement officer to the evaluation panel for the procurement file.

Price response

For complex procurement, testing is recommended to ensure that prices are like for like for example a quantity surveyor for infrastructure procurements or an accountant. This test aims to confirm that the requirements have been understood and scope is not underestimated.

Due Diligence

Due diligence is a process of verifying a supplier's capacity and ability to deliver the contract. It involves all or some of the following activities:

- reference checks
- credit and accounts checks
- site visits (e.g. to check the adequacy of equipment and resources)
- product testing
- security checks
- verifying anything the supplier has claimed they will or can do that is material to delivery of the goods services/works, for example sustainability checks

Once the panel have identified a preferred supplier, it may be necessary to carry out due diligence. The level and extent of due diligence will depend on the value, risk and complexity of the procurement.

Record in writing any due diligence carried out.

If anything is discovered during the evaluation or due diligence that concerns the panel and that may be grounds for exclusion from the process, the tender evaluation team chair is the decision maker. If serious issues arise that cannot be resolved consideration is to be given to select the next best supplier identified in the evaluation.

Reference Checking

We may carry out reference checking to assist in determining whether the supplier can deliver the output described in their tender response. Reference checking will be carried out following the tender being evaluated on its own merit. Reference checking will include:

- Checking with referees provided in the response
- Internal checking of prior performance on BDC project

Reference checking response will inform the Tender Evaluation Team and may result in adjusted scores for non-price attributes.

Security protocols

Errors can be made with communications during a procurement process. Some security protocols that can be used to reduce security errors include:

- Passwords set up in advance with individual support for emails so incorrect documents cannot be opened
- SharePoint set up with access managed to only specific suppliers.

Probity advisor

The probity advisor acts as part of an RFx evaluation panel and works contemporaneously with procurement leads. The principal role of a probity advisor is to provide probity advice and solutions throughout the RFx process. This is separate from the evaluation chair and does not provide an audit or assurance report.

A probity advisor is used when:

- The procurement team is inexperienced in public sector procurement.
- The transaction has new and/or unusual circumstances which will require advanced planning to manage probity risks and ongoing development of risk mitigation strategies as the transaction progresses.
- There is likely to be assurance oversight by another body, even if not a probity auditor

Probity auditor

The probity advisor works independently of the evaluation panel and is engaged to verify that processes followed during an RFx process are consistent with best practice principles and gives an audit report at the end supported by documented evidence and facts.

A probity auditor is used when:

- The procurement team is experienced in public sector procurement.
- There is a strong desire by the governance body to have independent oversight of activities of the transaction team
- An incident may have occurred, or a matter raised during the procurement process whereby the client is seeking a retrospective review of the process for probity assurance prior to awarding a contract

For high risk and complex procurements, the Procurement Manager will be the decision maker on the use of an external probity auditor.

Draft Evaluation Report and Seek Approval to Negotiate

Document the evaluation process and recommendation regarding the preferred supplier in the evaluation report.

The contents of the report should be signed by all members of the Tender Evaluation Team, and include, at a minimum:

- confirmation of the evaluation panel members
- confirmation that no conflicts of interest arose or the specific actions that were taken to manage any conflicts of interest (if applicable)
- number of submissions received
- any submissions that did not meet the requirements
- summarised ratings and comments
- recommendation and rationale
- any proposed negotiations
- any risks or issues associated with the recommendation

Send the final evaluation report to the DFA for approval.

For contracts above $500,000 Council must give their approval prior to the contract being awarded. The Procurement lead must draft a council report for the next council meeting to be sent alongside the tender evaluation report with the following resolutions at a minimum:

1. receives this report
2. Accepts the Tender Evaluation Team report and recommendation
3. Approve the Tender Evaluation report to confirm (preferred suppliers name) as the preferred supplier, and

Delegate the CEO to award the contract once due diligence (and negotiations if required) has been completed. During joint Council procurements it is recommended to agree between all parties that

the extraordinary meetings are held at the same time for all Council's for a decision so that no announcements can be made early by one Council.

Notify Suppliers of the Outcome of their Submission

Once the tender evaluation report has been approved including identification of a preferred supplier, the Procurement Lead must notify all suppliers of the outcome in writing. If a preferred supplier will take time to confirm, an interim notification may be used with ranking outcomes and unsuccessful respondents can be advised they are not preferred at this time. The outcome and successful supplier should only be announced on award of contract.

Where Tenders from 3 or more Tenderers are received, all Tenderers will be advised of the following within 10 working days of the acceptance of the successful tender

The following should be provided as a minimum:

a) name of the successful supplier

b) price of the successful proposal (where the supplier selection method was other than quality-based)

c) the number of conforming proposals received

d) range of grades for each non-price attribute (where attributes are graded) and, for each supplier, their individual non-price attribute grades

e) when the price quality supplier selection method is used, the margin between the proposal submitter.

In the event that less than 3 Tenderers submit tenders or the procurement activity was an RFP, only the information described in items a), b) and c) above will be provided.

For construction contracts there are specific requirements for communicating with participants during a sourcing process. If the Council have not accepted a submission within three days of the closing date, then the Procurement Lead must notify each participant in writing and tell them whether or not their submission is still being considered.

Hold Pre-Acceptance Meeting(s)

Arrange the pre-acceptance meeting(s) with the suppliers' representatives and the negotiation team.

Meet with the suppliers' representatives to negotiate and agree the contract. During the negotiations, the Procurement Lead must ensure that what is agreed does not result in a substantial change to the scope or nature of the original requirements. This means that although some improvements or changes to a supplier's offer are permissible, they must not result in a material change to the scope of the goods/services/works required.

Keep accurate notes and records of anything that is agreed during the negotiations.

Ensure that what is agreed during negotiations is recorded in the final contract. Records of agreements must be clear, accurate and unambiguous. Failing to accurately record negotiated agreements in the final contract could result in a legal challenge from a supplier.

Place Post Contract Award Notice

Complete an award notice for the Procurement Officer to publish on the NZGP platform within 30 working days of all parties signing the contract. The post award notice is required for any opportunity that was advertised on the NZGP platform.

The post award notice must state at a minimum:

- name and address of the successful supplier

- date the contract was awarded
- For Crown funded activities, the award notice must state which economic benefits have been included in the procurement

Debriefing Suppliers

Debriefings must be offered to all participants (including the successful supplier) once the sourcing process has been concluded and a contract has been awarded.

After the supplier has accepted an offer of a debrief, it must occur within 30 working days.

Debriefings must be conducted by the people who were involved in evaluating the submissions received. Debriefings should, where possible, be conducted by more than one person.

Debriefings can be conducted by phone, face to face meeting or alternatively feedback can be offered in writing if it is not possible to speak with the supplier. Conduct debriefings verbally wherever possible.

Take notes at the debriefing and keep a record of the discussions.

6. CONTRACT IMPLEMENTATION

Compilation of Contract Documents Signing Sets

Signing sets of contract documents shall be executed not later than 20 working days following acceptance of tender. Two sets of the contract documents (these can either be electronic or hard copies) should be assembled and checked for completeness as follows:

- The RFx.
- The contract agreement form completed ready for signing.
- The tender form and tendered pricing and personnel schedules (original and copy(s)) bound into signing sets, Section F of the RFx.
- The letter of acceptance, notices to tenderers, tender clarification queries and responses, interview minutes, pre-letting minutes, and any other tendering or agreement related correspondence bound into section F of the RFx.
- Photocopies of the general conditions, and the relevant standard specifications bound into section G of the RFx.

Filing of Signed Contracts

Once a contract has been signed by all parties, a copy of that fully signed contract along with the procurement documents must be saved in the contract register on SharePoint with limited access. The mandatory fields must also be completed at this point. The recommended fields may be updated as relevant. It is the responsibility of the contract manager to ensure the contract is filed and the contract register is updated as appropriate.

Purchase orders for contracts

One Purchase Order per contract is to be raised for the total contract value and approved by the Delegated Financial Authority (DFA) for the cost centre. Progress payments through the contracts lifetime are to be approved by the DFA for the invoices value be email. The approval email must be saved to the documents folder against the Purchase Order before processing.

Contract Plans

After the contractor is selected, in almost every situation the contractor should submit a draft contract management plan for approval as part of the final contract. Examples of contract management plans may include:

- Health and Safety Management Plan
- Quality Management Plan
- Environmental Management Plan

Bonds

The Bonds Register and safe is managed by the Finance team. The Engineer's Representative or Contract Manager is to deliver the hard copy of the bond to the Finance team for safe keeping. Prior to the release of the bond, an Authority to Release Bond letter is to be signed by the Contract Manager/Engineer's Representative.

7. HEALTH AND SAFETY

Information Sharing Between PCBUs (i.e. BDC and Contractor(s))

There must be clear consultation, collaboration and cooperation between PCBUs, no more so than when developing safety plans to ensure the safety of all workers and others in the vicinity of the workplace.

The extent of the Council's involvement will depend on the level of control and influence it has over the work. In most situations the contractor will have most of the control simply because they are on site and have specialist knowledge. The extent of influence the Council will have depends on:

- The nature of the work and the Council's knowledge of it
- Council employee involvement in carrying out the work
- The isolation of the work

Whatever the situation, effective consultation is critical, and agreement between PCBUs on who is responsible for what at any given point must be clear and unambiguous.

There are some basic principles on the exchange of information between PCBUs, i.e.:

- BDC is required to give information to the Contractor(s) around hazards and risks and then agree with the Contractor on how they should be managed. The contractor is then required to manage any hazards they may create or identify while the work is being undertaken.
- Contractor induction is an essential element in the practicable step of information sharing between PCBUs. BDC is required to facilitate this. For significant contracts induction will take place at the beginning of each contract.
- Information on workers training records, and/or how they will be supervised.
- The contractor is to advise if they are bringing into or maybe creating any hazards or risks on site, e.g. hazardous substances, noise, dust, electrical hazards etc.
- The contractor is to advise whether subcontractors are intended to be engaged.

Health and Safety Management Plans

There are various types of site-specific safety plans required for physical works, e.g. full site-specific safety plan, a job safety analysis (JSA), and permit to work (PTW) etc. The type of information required will be dependent on the scope of the work and level of risk. Information may include the following:

- The nature of activity, task or project

- Project policies and objectives
- Project organisation structure
- Details of personnel and any other sub-contractors likely to work on the project
- Responsibilities for Health and Safety of all parties involved (including Council)
- Key process steps and associated risks and mitigating controls in place
- Risk Register for planned works
- Accident and Hazardous Substance Registers for contract
- Contract induction requirements
- Records of training for those involved in hazardous works
- General training and competency register
- Details or any certified equipment used and maintenance or calibration records
- Emergency response plans, details, and contacts
- Details of planned contract review meetings
- Details for notifiable and hazardous works (including use of permits)
- Schedule of inspections and audits relating to the contracted works
- Health and Safety Reporting details (lead and lag indicators)
- Change management process (authorisation required)
- Relevant forms

All PCBU's involved on site shall ensure regular monitoring on site takes place during the contract period. Documentation of this will provide all relevant PCBU's with an assurance that health and safety is being managed effectively.

For high-risk work, BDC Contract Managers may need to engage "experts" or external auditors to review health and safety plans where they do not have the expertise themselves. This would depend on the type of work being carried out (i.e. complexity, risk).

Notifiable Work Including Hazardous Work and WorkSafe NZ

The HSWA requires employers, as well as the person who controls a place of work, to provide at least 24 hours' notice to WorkSafe NZ of particularly hazardous work. The contractor must follow procedures for notifiable work as required by the regulations.. A copy of the notifiable work form must also be provided to the BDC Contract Manager as part of the site-specific safety plan documentation. https://forms.worksafe.govt.nz/hazardous-work-notication

- Logging or tree felling undertaken for commercial purposes.
- Construction work with a risk of falling 5m or more.
- Erecting or dismantling scaffolding with a risk of falling 5m or more.
- Use of a lifting appliance where the appliance must lift a mass of 500kg or more over a vertical distance of 5m or more.
- Work in any pit, shaft, trench, or other excavation in which any person is required to work in a space more than 1.5m deep and having a depth greater than the horizontal width at the top.
- Work in any drive, excavation, or heading in which any person is required to work with ground cover overhead.

- Work involving the use of explosives, or storage of explosives for use.
- Work in which a person breathes compressed air, or a respiratory medium other than air (not diving).
- Work in which a person breathes compressed air, or a respiratory medium other than air (diving).

Contract Induction

- Prior to any work commencing, the BDC Contract Manager will induct the contractor (or a representative from the contracting organisation), on relevant points from Council's Health and Safety Management System. The level of detail of the induction will reflect the health and safety risk profile of the contract.
- This does not need to be carried out where the contractor has been inducted in the last 12 months for similar work at the same site and, in the case of high-risk activities, the contractor's Health and Safety Plan/Site Specific Safety Plan covers the new work (e.g. Road resurfacing programme).
- This information in the induction should include the following details:
    - Nominated contact for both Council and Contractor
    - Planning and running of joint meetings
    - Procedures for reporting hazards
    - Responsibilities where work is notifiable to WorkSafe NZ
    - Requirements for reporting accidents and incidents to Council and to WorkSafe NZ
- Council should give information on:
    - Hazards that are known to exist in the place of work that may affect the contractor or their employees
    - Restricted areas
    - Any Permit to Work requirements (e.g. confined space permits)
    - Any Council operating procedures that the Contractor will be required to comply with
    - Details of existing emergency procedures and first aid facilities
    - Minutes of meetings
- The Contractor should give information on:
    - Hazards that they will be bringing onto or creating on site, or known to exist on site
    - Safety provisions for other people who might be affected by the work
    - Safety equipment that may be necessary
    - Restricted areas
    - Hazard identification process and Site Hazard Register

Site Handover Meetings

- For construction contracts, a Site Handover meeting is required where a contractor is taking control of a Council site.

Events reporting

- All events must be notified to the BDC Contract Manager within 4 hours. The BDC Contract Manager is to record the event in the BDC Health and Safety Management system within 48 hours with the Health and Safety Advisor deciding on the need for a standard or formal investigation. Investigations will be led by the Health and Safety Advisor and governed by the Health and Safety committee.

Notifiable Events

Notifiable Events must be notified to the BDC Contract Manager within 4 hours and both the Contractor and BDC (in consultation with the BDC Health & Safety Advisor) shall report any Notifiable Events to WorkSafe New Zealand.

Definitions of a Notifiable Event can be found at:
http://www.worksafe.govt.nz/worksafe/notificationsforms/notifiable-events

Notifiable event – a notifiable event is any of the following events that arise from work:

- A death
- A notifiable illness or injury; or
- A notifiable incident

A notifiable incident is where someone's health or safety is seriously endangered or threatened. People may be put at serious risk even if they were some distance from the incident (e.g. from a gas leak). A notifiable incident also covers the incidents specified below which may have only resulted in minor (non-notifiable) injuries but had the potential to cause serious injury, illness or death. Where it is safe to do so, the incident site must, be preserved for possible investigation by the authorities.

Notifiable illness or injury - These are specified serious work-related illnesses or injuries, and all injuries or illnesses, which require a person to be admitted to hospital for immediate treatment are notifiable.

Notifiable incident - a notifiable incident is an unplanned or uncontrolled incident in relation to a workplace that exposes the health and safety of workers or others to a serious risk arising from immediate or imminent exposure to any of the following:

- a substance escaping, spilling, or leaking
- an implosion, explosion or fire
- gas or steam escaping
- a pressurised substance escaping
- electric shock (from anything that could cause a lethal shock, for example it would not include shocks due to static electricity, from extra low voltage equipment or from defibrillators used for medical reasons)
- the fall or release from height of any plant, substance, or thing
- damage to or collapse, overturning, failing or malfunctioning of any plant that is required to be authorised for use under regulations
- the collapse or partial collapse of a structure
- the collapse or failure of an excavation or any shoring supporting an excavation
- the inrush of water, mud, or gas in workings in an underground excavation or tunnel
- the interruption of the main system of ventilation in an underground excavation or tunnel
- a collision between two vessels, a vessel capsize, or the inrush of water into a vessel

PCBUs must ensure they have agreed who will report Notifiable Events to WorkSafe New Zealand. Requirements for reporting on other incidents will be agreed with BDC Contract Manager.

Reporting Indicators - Active (lead) Reactive (lag)

Indicators provide information that can be used to assist the officers of both Council and Contractor in maintaining effective oversight of health and safety in accordance with their due diligence duties under the HSWA.

Active (Lead) indicators are focused on future safety performance and continuous improvement. These measures are active in nature and report what contractors are doing on a regular basis to prevent injuries.

Reactive (Lag) indicators are used to indicate progress towards compliance with measures recorded on the numbers of personnel hurt and the severity. Reactive measures indicate failure, active indicators measure performance.

When reaching excellence in safety and health, Key Performance Indicators (KPI's) should focus on using active indicators to drive continuous improvement.

Health, Safety and Environmental Non-Compliance

Where a breach of any health, safety and environment requirements occurs, or in Buller District Council's opinion is likely to occur, Buller District Council may immediately suspend work. If the breach or potential breach is the result of the action or inaction of the contractor personnel, Buller District Council may require such personnel to be removed (temporarily or permanently) from the site.

Reviewing the plans:

- Managers need to ensure Safety Plans submitted by contractors are adequate and appropriate to the risks and circumstances of a particular contract.
- Some contractors may submit a standard plan or policy intended to apply to all contracts. Managers need to ensure that the plan is relevant and deals with the unique hazards and circumstances of the contract.

Health and Safety Monitoring

In most situations monitoring of health and safety performance would be viewed as a reasonably practicable thing to do. Because every contractual situation is different, the Manager in consultation with PCBUs, will need to decide what is reasonably practicable to do in each circumstance.

Situations where it may not be practicable to monitor could include:

- Low risk work where hazards and risks are not significant.
- Where the contractor is working remotely, and the Council does not have ready access.
- Where Council staff do not have the level of competence required to monitor because of the specialised nature of the work.

It needs to be made clear across PCBUs (i.e. BDC and contractors), via the consultation process just who, if anyone, will be monitoring.

There are at least two effective ways of monitoring:

- Regular inspection by viewing
    - The Site Visit Records form to be used. This form is generic – the Manager should develop their own to reflect the nature of the work. Records of monitoring should be kept. Where an inspection reveals an area of non-compliance then the Manager must

make a judgement on what appropriate action could be taken, ranging from verbal warning to suspension of contract.

- Meetings
    - For contracts with significant hazards or risk, there should be regular meetings between PCBUs.

Monitoring frequency:

Health and safety monitoring frequency will be dependent on a number of factors including the type of work (e.g. desktop vs construction), and the risk assessment of the work.

- All construction contracts **must** have a specific health and safety audit at the start of the work programme
- All contracts with high risks involved e.g. requiring a WorkSafe permit **must** have specific health and safety audits through the Health and Safety advisor at major milestones/hold points.
- All health and safety specific audits **must** be recorded in the BDC H&S management system.

Where unsafe behaviour or practices are observed during (or even outside) the course of formal monitoring by an employee of the Council, as well as actual incidents at any time, the accountable Manager should ensure there is a procedure in place whereby such instances are reported, and the appropriate action immediately taken.

All on site safety audits arranged by the BDC Contract Manager are to be recorded on the BDC Health and Safety Management system , with corrective actions to be completed by the assigned person.

8. CONTRACT MANAGEMENT

Managing the Supplier Relationship

Contract management includes managing contractor performance, site issues, correspondence, contract variations, the project budget, meetings, all progress inspections, any health and safety inspections, as well as any practical completion inspections.

The management of a contract **should** only be undertaken by staff who have had experience in that type of goods, services or works. The management process should be confirmed at the outset of the procurement process.

Supplier relationship management is the ongoing strategic management of the contract. All contracts **should** have a relationship manager appointed as early as possible so that they gain a full understanding of the background and objectives of the procurement. The relationship manager is often the BDC contract manager, however for CCO contracts, the responsible Group Manager is the relationship manager.

Managing delivery, monitoring health and safety, mitigating risks and avoiding and managing problems is a large part of contractor management with management plans setting out the expectations and outcomes for the contract performance. Performance management includes:

- Receiving and reviewing suppliers' or providers' reports.
- Regularly reviewing suppliers' performance and delivery against the contract.
- Aiming for continual improvement.
- Monitoring to ensure delivery meets requirements, including quality, standards and service levels.

- Mitigating risks.
- Proactively managing under-performance.

Monitoring ensures that the agreed outcomes and outputs are delivered on time and on budget. It includes:

- Collecting data related to performance - from monitoring meetings, reporting, and audit or accreditation.
- Assessing how well requirements are being met and outcomes are being achieved.
- Taking action to address any opportunities to enhance outcomes or manage problems.

Monitoring imposes costs on the Council and the supplier. To make sure it's cost-effective, consider:

- Preparing a straightforward reporting template.
- How often reporting is needed.
- Matching the frequency of monitoring and reporting to the risk and strategic importance of the service.
- Don't ask for reporting if the Contract Manager won't use it.
    - Audit review (or accreditation review for social services procurement) may also be part of the delivery management.

Principles of Contract Management:

- Supplier performance should be managed pro-actively to achieve the right results on time, at the agreed cost and at the required quality.
- The supplier's management of health and safety should be monitored and managed.
- All communication that may have contractual significance must be documented.
- Records should be kept showing appropriate contract monitoring and management.
- The conditions and terms of the contract should be understood and adhered to by all parties to the contract.
- Contract risk, including business contingency and continuity, should be managed.
- Supplier invoices should only be authorised by those with the necessary delegated authority.
- All equipment, intellectual property and materials belonging to Council must be fully returned prior to contract completion.
- There should be formal acceptance that the product(s), service(s) or the work is acceptable.
- The learning points from the problems and successes experienced should be identified.
- These will be used to improve the management of the contract process throughout Council in future.
- A factual assessment of the supplier's competencies should be recorded and used as a reference in future contract activities.
- The supplier shall be advised of Council's evaluation of their performance so that they can have the opportunity to address any issues prior to future tender submissions.

Contract documentation

All contract documentation is to be saved in the contract file on SharePoint.

Document	Description

Instructions to Contract	Instructions to contractors are issued to convey contractual information or requirement to the supplier. They are numbered and recorded on file often sent via a Notice to Contractor.
Variation Order	Variation orders confirm changes to the contract requirement or terms and conditions. They are numbered and recorded on file often sent via a Notice to Contractor.
Quality Control Records	Quality control records must be certified, recorded on file and include the following: • The results of any inspections or measurements • The procedure used • The required standard • Certification of pass or fail
File Notes	File notes should be kept for any informal communications that might possibly have contractual implications. If in doubt, keep a record. File notes should include the following: • date, time and place • participants • topics and main points
Plans, Drawings and Equipment Records	Plans, drawings or equipment records may be required for contract implementation or subsequent maintenance. All such documents must be kept on the contract file.

Document	Description
Minutes of Meetings	Minutes should be kept for all formal meetings. The agenda should normally include: • health and safety • progress during the period of review • variation orders issued • details of any claims to be submitted • details of any problems or opportunities anticipated • an action plan Generally, the minutes on these items should include: • the reference numbers of any relevant documents issued • a brief description of the issue • the action taken or proposed, with an action number which remains in the minutes until the action is completed • who is responsible • when the action should be completed If there is nothing to report, then this must be documented in the minutes.

Visual Records	Visual records include: • photographs • videos They can be used either: • proactively, to record the conditions before works start • reactively, to record the consequences of activities or events They need to be identified with the following: • scene • reason for recording • date and time of recording • name and position of the recorder • names and positions of any witnesses Visual records should be numbered, and these details kept on the contract file.
Notifications Regarding Customer Service	In many cases, contract work will affect members of the public. It is important to ensure that the public are informed of all the aspects of the work. It is essential to work with the Communications and Customer Services staff when conveying information to the public. Keep these groups informed of all projects that will have an impact on the public.

Contract Monitoring

Contract managers may need to carry out monitoring as per an agreed schedule or on demand. Some random visits are also advisable. These visits are necessary to:

- ensure that the contractual obligations continue to be met on an ongoing basis and that the overall project/programme objectives are achieved
- check on progress
- check that the Construction Works are to specifications
- discuss with the Contractor any problems seen, or they have encountered
- decide what action is to be taken

An example of how to work out the frequency of construction monitoring of specific contracts can be found here.

Contract Communication

Contract communications can be either formal or informal and are commonly referred to in the general terms and conditions of specific contracts. Examples of formal communication include:

- Notice to Contractor or Contract Instruction
- Notice to Engineer
- Reports
- Site visit notes
- Contract meeting notes

Examples of informal communication include emails and phone calls.

Contract reviews

Contract review dates are to be considered with regard to Section 17a of the 2002 Local Government Act. In particular subsection 2 states:

- Subject to subsection (3), a review under subsection (1) must be undertaken—

(a) in conjunction with consideration of any significant change to relevant service levels; and
(b) within 2 years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service, or regulatory function; and
(c) at such other times as the local authority considers desirable, but not later than 6 years following the last review under subsection (1).

Outside of the Section 17a, Contract reviews may undertaken during the term of a contract to support future contract extensions, into a new term, to ensure continued Value for Money is being achieved.

9. CONTRACT PAYMENTS, VARIATIONS, AND EXTENSIONS

Supplier Payments

The objective in processing supplier invoices or claims for payment is to:

- Ensure that the goods, services, and works have been received.
- Ensure that they relate to a commitment that has been properly authorised by a purchase order or approved contract.
- Ensure that they are processed in accordance with the timeframes of the contract.
- Ensure that payments are made in line with the contract obligations. For construction works contracts, ensure that they are managed within the timeframes of the Construction Contracts Act 2002.

Once a contract has been approved, any payment to be made as the work progresses is managed through an administrative process.

No further delegation is required where:

- The payment is on the authority of an approved contract or purchase order.
- The payment does not exceed the specified payment for work completed.

Claims should be checked and the provisional payment schedule and clarifications sent to the Contractor within three working days.

Invoices will be paid on the 20th of the month following the invoice date, except where other arrangements were made.

All suppliers are to be advised to send their invoices (along with a breakdown of the invoice as per the schedule of prices) quoting the contract and purchase order number to: invoices@bdc.govt.nz

Progress Payments

It is usual for contractors to lodge a monthly progress claim. The contract manager must review, check, and approve all progress payments. For construction contracts in particular, the supplier for each progress claim should complete a Claim for Progress Payment (also known as a Pre-Invoice Payment Claim, or a Progress Payment Certificate).

This progress claim should:

- Be received from the supplier within the timeframe specified in the contract documents.

- Provide the supporting details for either the tax invoice provided by the supplier, or the buyer created tax invoice created by Council
- Quote the purchase order number.
- Be a GST invoice either buyer created, or supplier created.

Processing claims through the retentions account

When processing claims, the retentions vs the claim payment is to be split by General Ledger with the claim and retentions being separate lines against the relevant general ledger and the retentions amount being credited from the retentions account. The Contract manager/Engineer's Representative to populate the Retentions Register (held by Finance) including the full document to support each claim processed. The transaction description is to include the contract number (e.g. MajSC147).

An example of this is:

Claim	Project specific GL	Project ID subcode 50/51	$ 90,000.00
10% retentions	Project specific GL	Project ID subcode 70	$ 10,000.00
10% retentions	GL 2101851001	Project ID subcode 70	- $ 10,000.00

When processing the retentions payment, the retentions amount is debited from the retentions account. An example of this is:

10% retentions	GL 2101851001	Project ID subcode 70	$ 10,000.00

Buyer created tax invoices

Buyer created invoices can be issued in some circumstances. If a buyer created tax invoice is issued, the supplier must not issue an invoice. There must be only one invoice created. Council has Inland Revenue Department (IRD) authority to issue buyer created tax invoices for contract progress payments where:

- There is a signed agreement between the parties specifying the use of buyer created tax invoices.
- The supplier will not issue a tax invoice for that contract.

A Buyer Created Tax invoice must show:

- standard taxable supply information
- the buyer and seller's GST numbers
- GST added to the gross supply of goods or services.

One copy of the Buyer Created Tax Invoice is sent to the supplier, and another is retained in the Councils contract file. Progress Payment Schedules and Pre-Invoice Payment Claims from suppliers should include the following:

- the contract name and number
- the date of submission
- an estimate of the percentage completion (as appropriate)
- the estimate or measure of the quantities of materials provided (as appropriate)
- the hours worked

Progress Payment Schedules and Pre-Invoice Payment Claims from suppliers should also include:

- the value of retentions to be withheld
- the total value of physical works completed
- the value of physical works previously certified and paid

Authorising Claims

When claims are authorised for payment, they must be:

- matched to a commitment made to the supplier
- certified to confirm that the goods, services or works described in the claim have been received
- authorised by an appropriate authorised signatory

Payment should not be withheld unless there is a valid contractual reason for doing so.

Late Claims

Late claims are payments outside the timeframe within which a cheque or direct credit is normally issued. Whether the claim will be paid at all, depends on whether agreement was reached, and a commitment given to the supplier.

For the supplier to be paid on time, the claims should be received before the date prescribed in the conditions of contract. If claims are not received on time, they must wait for the next cheque run unless there are exceptional circumstances. If any leeway is given, Council must reserve its rights to enforce the procedure in the future.

Timeframes Imposed by the Construction Contracts Act 2002

The Construction Contracts Act 2002 covers new building contracts entered into after 1 April 2003.

The Act imposes an increased duty on those who certify payments, particularly in terms of timeframes.

It should be noted that the definition of construction is very broad and may include contracts other than construction contracts (e.g. maintenance contracts if there is a construction component). In general, the timeframe for the issue of payment schedules and Certificates of Progress Payment is that:

- The Council understand and follow the requirements for management of the payment process as described in the contract (NZS3910:2013 imposes specific timeframes which need to be followed).
- The Council makes a payment to the supplier within the timeframe set in the contract documents.

The consequences if a payment is not made in time (or a payment less than the amount specified certified is made) are that:

- The original claim by the supplier (or the outstanding amount) becomes a debt due enforceable in court together with actual and reasonable costs of recovery.
- In addition, the supplier is entitled (after giving 5 days' notice) to suspend work and claim an extension of time, place a charging order over the land or to put the matter to adjudication.
- Or other dispute resolution process.

Retentions

A retention is a percentage of amounts paid to the Contractor and held back by the Council for the purpose of encouraging timely completion or protecting the Council in the event of non-performance by the Contractor.

For Construction contracts half of the retention monies are released at Practical Completion on receipt of the as-builts if part of the contract and the balance is released after the issue of the Defect Liability Certificate.

Progress Payment upon Practical Completion

When Practical Completion is reached, it is to be included in the next Progress Payment Schedule an amount for half of the retentions for the whole of the Construction contract.

Practical Completion is when the Construction Works are completed except for minor omissions and defects.

If Practical Completion has been reached, then the Engineer to Contract is to issue a Certificate of Practical Completion.

If Practical Completion has not been reached, advise the Contractor in writing of the work that must be done before Practical Completion is reached by issuing (refer to clause 9.4.2(b) of the General Conditions of Contract for Construction Works) a Contract Instruction.

Progress Payment upon Issue of Defects Liability Certificate

When the Engineer to Contract issues the Defects Liability Certificate, the Council is required within 10 Working Days to ensure the Contractor is paid the balance of the retentions.

The Defects Liability Period is negotiated in the contract before awarding and the timeframe is to be used unless agreed by formal variation.

The Engineer to Contract must notify the Contractor of any defects and omissions that need to be remedied. This is to be completed before the Defects Liability Period expires.

Once the Defects Liability Certificate has been issued the final payment can be released.

Contract Variations

From time to time, it may become apparent that the contract requires amendment either to meet requirements or due to a change in circumstance. Some changes will be anticipated and provision for that change made in the contract (e.g. regular reviews of price or key performance indicators). Not all variations will be anticipated. Unanticipated variations should be carefully considered before being accepted.

Unanticipated variations may be needed during contract implementation for one or more of the following reasons:

- External or environmental reasons
    - These include changes in legislation, unexpected physical conditions or suppliers experiencing problems with quality or delivery.
- Errors or omissions
    - Errors or omissions may be found in the statement of requirements (e.g. incorrect information may have been provided or the boundaries of the scope have not been properly defined).
- Opportunities to add value
    - The scope may be changed to take advantage of new technology or other opportunities that may add functionality or save costs.

The objective when managing any variations (changes or extensions) is to balance the right of the supplier to be fairly compensated for difficulties or additional costs that were unanticipated and yet also ensure Council does not end up paying for anything it is not contractually liable for.

It is also important to ensure that:

- contract implementation is not delayed by anything foreseeable
- the supplier is not unfairly disadvantaged by issues that they could not reasonably have foreseen
- all variations are properly considered and fully documented
- all variations are tracked as part of the contracts progress payment tracking

A variation approval does not apply to contracts which allow the contract price to be increased by following a cost index or other quantifiable adjustment mechanism.

Claims for variations should include the following:

- the contract name and number
- the variation order number
- date of submission
- a description of the variation
- the name of the authorised signatory who approved the variation
- the value of the claim
- supporting documentation
- the name and signature of the supplier submitting the claim

Form of Variation

Whether anticipated or not, all variations must be formally documented in writing as they form part of the contract. The variations, once documented in writing and accepted by both parties, are legally binding.

A variation may take the form of:

- a Variation Agreement or Deed (appropriate for changing legal conditions such as term)
- an exchange of letters confirming the variation
- a replacement schedule
- a contract extension
- for physical works contracts, a variation order signed by both parties

When managing variations, it is important to consider:

- the impact of the variations on related procurements or projects
- any authorisation requirements

Contract Extension

A contract extension may be granted providing the terms of the original contract and delegations permit such extensions. In addition, the contractor must be willing to continue. The original signatories, or appropriate delegated authorities, should approve the contract extension. The benefit and cost of an extension to a contract should be considered before agreeing on the extension. All contract extensions that exceed the originally approved contract price must be reported to Council.

10. CONTRACT END

Before the contract ends, think about:

- organising a debrief meeting with the supplier or provider
- getting a final report from the supplier
- the final payment or return of unspent funds (if any)
- the final report by the contract manager
- current clients of the service - do they need to transfer to other services?
- client records - how should these be handled? Will they be handed over to a new supplier? Check whether the contract covers this
- a review of the supplier's performance and the service agreement

Evaluation

The following criteria are the requirements for the completion of Performance Evaluations of suppliers using the PACE (Performance Assessment by Coordinated Evaluation) system. Performance Evaluation is to be implemented on all major Services and Construction contracts. Evaluations are to be arranged by the Contract Manager. All evaluations will be entered onto the supplier register. If a review is disputed by a supplier, the form is to be escalated to the T3, T2 or T1 manager for final decision.

Interim Evaluations

Interim evaluations are undertaken to provide feedback on a supplier's performance during the contract period, with the objective of improving performance during the contract. They should be used to facilitate a performance related discussion that flushes out performance issues or barriers to improving performance, gives objective and real time feedback, and aids the resolution of differences. As such, they may vary significantly month to month, depending on a supplier's performance in that period and represents only the performance of the supplier in the period since the last evaluation.

They are also used as an input into the final evaluation. If a supplier's overall rating is less than 50% or more than 70% additional specific details are required to be entered in the overall comment box to support the evaluation rating.

Final Evaluations

Final evaluations are the final performance evaluation for a contract. The final evaluations for a particular contract will be assessed at the end of the contract not by averaging all interim ratings during the contract, but by an assessment as to the overall performance by that supplier using the interim evaluations during the contract as the basis for the final decision. All final evaluations require comments to be entered into every comment box. Such comments shall amplify features of the supplier's performance, and any significant issues that arose during the contract period.

It is expected that the final evaluation will be completed shortly after Practical Completion of the contract. For contracts with a defect notification period or where a major incident occurs after the final evaluation is completed, the final evaluation may be revisited. Examples include where the number of, or attention to, defects has had a material positive or negative effect on the overall assessment of the supplier's performance.

Debriefs

For major contracts, a debrief may be beneficial for a review on what work well and what can be improved. Debriefs are to be arranged by the Contract Manager and an independent facilitator may be beneficial for this.

11. KEY DOCUMENTS

Procurement Forms/Templates

- Procurement Plan Template
- Procurement_Exemption or Opt Out_template
- Request for Proposal Template
- Request for Tender Template
- Request for Quote Template
- Registration of Interest Template
- Advanced Notice Template
- Tender Recommendation Report
- Notice to Tenderers (NTT) Template
- BCTI Agreement Letter to Contractor
- Conflict of Interest and Confidentiality Agreement
- Evaluation matrix Lowest Price
- Evaluation matrix Weighted Attributes
- Evaluation matrix Price Quality Method
- Evaluation plan
- Supplier reference check template
- Negotiation plan
- Notification of Acceptance of Tender letter
- Notification of Unsuccessful Tender Letter
- Contract award notice

General Contract Management Forms/Templates

- Contract Checklist
- Contract Management Plan
- Contract Start Up Meeting Agenda
- Supplier Performance Evaluation Form
- Notice To Contractors (NTC) Template
- Contract Debrief Template

Professional Services Contract Management Forms/Templates

- Conditions of Contract for Consultancy Services (CCCS)
- Contract for Services Template
- Short Form Agreement (SFA)

- Briefing Template

Construction Services Contract Management Forms/Templates

- Preliminary and General Specification
- Conditions of Contract (3910-2013)
- Conditions of Contract (3916-2013)
- Conditions of Contract (3917-2013)
- Minor Works Construction Contract Template
- Contractor Capability Assessment Induction
- Contract Meeting/Record of Site Visit Form
- Payment Schedule BCTI template.xlsx
- Bond release form template
- Liquidated damages calculations template

Other documents

- Procurement Policy
- Financial Delegations Policy
- Conflict of Interest Policy
- Conflict of Interest Procedure
- Health and Safety Management System
- Risk Management Manual
- https://www.worksafe.govt.nz/
- NZTA - Procurement Manual - Amendment 6 - April 2022 (nzta.govt.nz)
- NZTA Procurement Strategy
- MBIE - Templates | New Zealand Government Procurement and Property
- https://oag.parliament.nz/2020/conflicts
- Government Procurement Rules - 5th edition

12. Roles and Responsibilities

Contract type	Roles
Contract for Services	Contract Manager
Minor Works Contract	Contract Manager
Short Form Agreement	Contract Manager
Conditions of Contract for Consultancy Services	Contract Manager
NZS3910:2013 – Conditions of Contract for Building	• Principal's Representative • Engineer to Contract • Engineers Representative (may be required) • Assistant Engineers Representative (may be required)

and Civil Engineering – Construction	
NZS3916:2013 – Conditions of Contract for Building and Civil Engineering – Design and Construct.	• Principal's representative • Engineer to Contract • Engineers Representative (may be required) • Assistant Engineers Representative (may be required) • Client's Representative (if no other role is filled by BDC employee)
NZS3917:2013 – Conditions of Contract for Building and Civil Engineering – Fixed Term	• Principal's Representative • Engineer to Contract • Engineers Representative (may be required) • Assistant Engineers Representative (may be required) • Client's Representative (if no other role is filled by BDC employee)

Contract Manager/Client's Representative

The Contract Manager oversees contract execution, ensuring compliance with contract terms and service levels, managing risks, monitoring performance, resolving issues, and maintaining stakeholder relationships.

Below are the activities a Contract Manager may undertake:

- ensure that the contract documentation reflects what has been agreed between the parties
- act as the single point of contact for all contract matters
- oversee the contract's day-to-day operations
- check invoices and only certify payment when satisfied that delivery has been made in full
- regularly monitor and report on the supplier's performance
- issues are identified and resolved quickly and effectively
- escalate issues as necessary
- maintain an overview of the contract requirements and seek changes where appropriate to meet emerging business needs

Relationship Manager

Generally, the BDC Contract Manager, however for Council Controlled Operators, this is the Group Manager for the relevant unit.

Procurement Lead

The Procurement lead is the person leading the Procurement process including drafting contracts documents, procurement documents, RFx documents and ensuring the steps in the manual are followed. This is commonly also the final Contract Manager.

Procurement Officer

The Procurement Officer proovides assurance on the procurement process including evaluation criteria, contract review and fit within the procurement policy. They then manage the sourcing processes on the NZGP platform, ensuring compliance with Procurement rules, obtaining value for money, maintaining ethical standards, and fostering supplier relationships.

Principals Representative

BDC representative that sits above the Engineers Rep, and Engineer to Contract for construction contracts. This can be escalated to GM or CEO if needed.

Specific Roles for NZS3910:2013, NZS3916:2013 and NZS3917:2013 Contracts

Engineer to Contract (Engineer)

The Engineer to Contract administers the contract, ensures technical compliance, oversees project execution, manages disputes, and safeguards the client's interests. Key personnel to complete this role are in the IS Professional Services Panel.

- Where appointed, the Key Personnel shall carry out the role and duties of the Engineer under the 391X Contract as stated in clause 6.2 of the 391X Contract as it relates to reviewing and making decisions on matters in dispute under the 391X Contract. The Key Personnel will not carry out any of the other duties or exercise powers otherwise vested in the Engineer under a 391X Contract unless otherwise notified by Council in accordance with this Appendix A.
- This is because Council's 391X Contracts typically allow the "Engineer's Representative" to exercise all powers of the Engineer except for reviewing and making decisions on matters in dispute.

Engineers Representative

Appointed by the Engineer to Contract in agreement with Council's representative. Generally, the Engineers Representative is the BDC project manager.

- Undertake duties as delegated by the Engineer to Contract.
- Oversee the contract's day-to-day operations.
- Regularly monitor and report on the supplier's performance including health and safety audits.
- Reviewing all consents and ensuring work is carried out in accordance with the relevant consents.
- Escalate issues as necessary to the Engineer to Contract.
- Maintain an overview of the contract specifications.
- Certification of progress claims.
- Administer the Contract in a fair and responsive manner.
- Schedule, chair and take minutes of all contract meetings.
- Attendance at other meetings as required.
- Reviewing of Contractor documentation, including proof of insurance, management plans (i.e. Site-Specific Safety Plan, Traffic Management Plan, Environmental Management Plan and any other management plans required by the Contract) and the form of the Contractor's Bond.
- Assessing the Contractor's payment claims, amending them as necessary and issuing of provisional Progress Payment Schedules and Progress Payment Schedules (including the Final Payment Schedule).
- Instructing and making decisions on the Contractor's entitlement to Variations and valuing of Variations.
- The Principals' Representative with the appropriate financial delegations must co-sign all variations.
- Assessing claims for, and awarding any, extensions of time.
- Changing of the Drawings or Specifications after obtaining appropriate approval with the Principals Representative.

- Issuing of certificates, including the Practical Completion Certificate and Final Completion Certificate; and

Carrying out any of the other functions or powers vested in the Engineer under the Council's 391X Contract, except reviewing and making decisions on matters in dispute.

Assistant Engineers Representative

Appointed by the Engineer to Contract to assist the Engineers Representative with:

- The Contracts day-to-day operations.
- Regularly monitor and report on the supplier's performance including health & safety audits.
- Escalate issues as necessary to the Engineers Representative and Engineer to Contract maintain an overview of the contract specifications.