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Procurement

PROCUREMENT AND CONTRACT MANAGEMENT

1 Introduction

The Waimakariri District Council (the "Council") is a territorial local authority with obligations to its rate payers and the public, defined under the *Local Government Act 2002* ¹as: "to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses". ¹

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

2 Policy Context

Procurement plays a vital role in the delivery of Council outcomes, with a significant variety of goods, services and works being purchased from third party suppliers.

The Council recognises that rigorous procurement and contract management practices:

- (a) ensure the Council delivers value for money and quality outcomes for the community
- (b) underpin the performance and delivery of the Council's strategic and business objectives
- (c) provide opportunities for business sustainability, strategic growth and improvement.

2.1 Definitions

Approved Contractor: prior to undertaking any work for the Council, all contractors must apply for and be approved against a set of eligibility requirements, including insurance cover, Health and Safety (H&S) and relevant codes of practice.

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

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

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

Contract Owner: a designated Council staff member who is responsible for the ongoing management and delivery of contracted goods or services, and who has the authority to contract on the Council's behalf.

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

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

¹ LGA (2002) Section 10: 1 (a).



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

Direct purchase: means the procurement of goods and/or services by placing an order with the supplier of choice, without seeking other bids.

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

Invited Tenders: Invited or Restricted tenders, restricted calls for tenders, or invited tenders are only open to selected prequalified vendors or contractors. Invited or Restricted tenders can come about because essentially only one suitable supplier of the services or product exists, of confidentiality issues or of the need for expedience (as in emergency situations)

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

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

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

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

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

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

Tender: a document in the form of an offer to supply goods and/or services, usually submitted in response to a public or selective invitation such as a RFQ, RFT or RFP.

Tendering - Tendering is the process of making an offer, bid or proposal, or expressing interest in response to an invitation or request to supply goods or services. As a contestable process other businesses are invited to respond to a particular need, such as the supply of goods and services, and will select an offer or tender that meets the needs and provides the best value for money.

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

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

Verbal quotation: a verbal process of inviting offers to supply goods and/or services involving a limited number of potential suppliers.



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Quotations – Quotations are a formal statement setting out the cost of particular goods or services.

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

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

3 Principles

Council procurement and contract management practices shall ensure that the Council plans for, enters into and manages its procurement and contract management activities in a manner that maximises value for money and quality service delivery, as well as realises business, strategic and community expectations.

The following ten principles shall be reflected in all procurement and contract management practices:

- 1. Procurement and contract management processes will comply with all applicable statutory obligations, recognise Council's business, strategic and community expectations, and reflect relevant sector, central and local government good practice standards and guidelines.
 - Such processes shall at all times foster a safe working environment for staff, contractors and the general public and support the intent laid down within the Health and Safety at Work Act 2015.
- 2. The purchasing power of the Council will be harnessed for the realisation of its strategic and business objectives, as well as the benefit of the local community.
- 3. Planning and managing for great results. All purchasing decisions will consider what the most appropriate procurement options are, and select from a range of delivery processes to achieve the best outcome for Council and the community.

This provides the flexibility for Council to identify the most appropriate procurement option for obtaining goods and services. The decision about what option to be used will be based on the type of expenditure being incurred as well as other appropriate procurement objectives. Available tools for procurement include:

- Full external service delivery;
- Collaboration between Council and external organisations;
- · Public/private partnerships;
- Fully resourced from internal sources.
- 4. The Council shall be fair to all suppliers. Where Open tendering applies, procurement practice will demonstrate integrity by all parties and enable all potential suppliers to have equal access through the use of open and contestable processes.

All Council procurement for goods and services shall be open and competitive. However, there are circumstances when Council may decide to restrict or limit supplier involvement in a procurement process, based on matters of scale or relevance, such as in an emergency and/or by allocating work directly to its own operating departments. When this principle of open and



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competitive purchasing is subject to deviation, Council will document the justification for such actions.

Suppliers may be disqualified from tendering for Council goods and services for a period of not less than 12 months if they lobby or contact Councillors or staff (other than contacting staff named in the tender documents) regarding a tender while the tendering process is in progress

- 5. The Council shall ensure full probity in its procurement practices and decision- making processes. All procurement decisions will be appropriate and transparent, fair and equitable, and free from any real or undisclosed bias or conflict of interest.
- 6. The Council shall take into consideration the whole of life costs and/ or benefits associated with procurement spanning design, manufacture, delivery, operation and disposal.
- 7. Consideration will be given to sustainable procurement principles whenever possible, i.e. assessing the whole of life social, economic and environmental impact of the procurement.
- 8. All contracts shall clearly identify the functional, performance and/or technical deliverables and key performance indicators that reflect Council's expectations and quality standards, and establish effective means to measure, monitor and manage their delivery.
- 9. All contracts will be actively managed in a manner that fosters collaboration with suppliers and contractors, maximises value for money, supports the Ta Matou Mauri principles as well as supporting continuous innovation and improvement; including the use of 'All of Government Contracts' and N³-GSB where appropriate.
- 10. All procurement and contract management risks will be identified and managed effectively throughout the life cycle of the goods or service.

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

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

4 Policy Objective

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

The Policy establishes the guiding principles for Council's procurement and contract management practices, and seeks to ensure that:

- (a) a robust framework is adopted across the Council for procurement, and the subsequent management and reporting of goods and services contracts;
- (b) the Council plans for, enters into and manages all contracts in a manner which facilitates Council strategic and business objectives, and optimises risk transfer;



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- (c) staff understand their roles and responsibilities with regards procurement and contract management, and are appropriately skilled and trained to do so;
- (d) the Council achieves quality performance and cost-effective service delivery.

Procurement should involve proactively managing supplier and other key stakeholder relationships throughout the sourcing process and for the duration of the contract. This embraces the development of relationships with suppliers, and driving value for money through ongoing efficiency gains.

All suppliers must meet Council's minimum standards to ensure health and safety is maintained.

5 Organisational Scope

This policy applies to:

All Council employees, including temporary employees and contracted staff.

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

6 Contract approval

All staff involved in the procurement of goods and services must have appropriate knowledge of, and comply with all relevant Council policies, procedures and guidelines, as well as applicable legislation and professional standards of practice with regards the procurement and contract management process.

All procurement results must be approved by the relevant reporting authority) Delegated Staff, Management Team, Committee or Council) and then signed by the relevant Delegated Authority. No external parties are authorised to sign contracts on behalf of Council.

The Contract Administrator shall maintain a full (physical and/or electronic) record of all procurement preparation, negotiation and award activities, in accordance with this Policy and all {Council records management practices}.

All contracts entered into by the Council must be in writing, signed by all relevant parties, and held securely on file in accordance with Council document management practices.

All contracts prepared by the Council shall utilise approved and standardised contract templates whenever possible. If no applicable template exists, the Contract Administrator shall seek assistance from the PDU Manager or their delegate to prepare a contract

No contractual arrangement entered into by the Council shall be greater than 10 years in its entirety, including rights of renewal. Council shall not enter into contracts that include more than two rights of renewal or that are "evergreen" (i.e. of indefinite length).

Market scoping and the evaluation of potential goods or service suppliers shall be in accordance with the Purchase Authority requirements stated at 6.1 below.

6.1 Contract approval thresholds

Quotations and tenders are not required when contracting through the all-of-government supplier network (N³-GSB) since the processes of procurement for a preferred supplier have already been undertaken.

For amounts under \$20,000, the necessity for obtaining three quotations is at the Contract Owner's discretion. Verbal contracts cannot be made for any value of purchase. All purchases should be confirmed with supply of a purchase order.



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Where a decision is made <u>not</u> to put out to tender a contract for goods and services to an amount greater than \$100,000 approval must be gained from the Management Team, and the reasons for the decision shall be reported to the relevant Standing Committee.

Purchasing directly from a supplier without an open and competitive process is acceptable for goods and services below an expected value of \$5,000 based on the following principles:

- (a) the value of the goods or services is relatively low;
- (b) the purchase of these goods or services is on an as-required basis;
- (c) it is not practical to aggregate separate orders for the goods or services;

The cost of seeking quotations or tenders would be out of proportion to the value of the benefits likely to be obtained, or impractical in the circumstances.

For goods and services with an expected cumulative annual price of more than \$100,000 a public contestable tender process is required. Contracts/tenders with an expected annual expenditure of greater than \$1,000,000 and total project cost of greater than \$2,000,000 may only be authorised by the relevant standing committee or the Council.

The following table sets out Council's procurement thresholds.

Note: Guidelines to be used in conjunction with N³ and All of Government pricing.

Dollar value	Procedure	Purchase Authority	Value Assessment
Less than \$5,000	Direct from supplier	Per delegations	One up
\$5,000 to \$20,000	3 quotations or direct from supplier	Per delegations	One up
\$20,000-\$100,000	3 quotations	Per delegations	One up
>\$100,000	Public tender	Per delegations	Tender criteria
>\$1,000,000 pa	Public tender	Committee/Council	Tender criteria
>\$2,000,000 total	Public tender	Committee/Council	Tender criteria

One up approval must be used for all purchases. This means that there needs to be more than one person involved in the purchasing decision and approval. That is, an Initiator and an Approver with the appropriate delegation to approve a purchase.

The Chief Executive shall appoint a tender secretary who shall be responsible for the management and security of electronic tenders as well as the tender box and the tenders deposited therein. The tender secretary has responsibility for opening the tenders received, either electronically or hard copy and recording the tender prices at the conclusion of the tender process.

All tenders shall close at a time nominated in the tender documents and must be received either electronically or in the tender box by the closing time. The tender box shall be fixed in one place in the foyer of the Rangiora Service Centre and shall remain locked until the closing time for tenders. Electronic tenders will only be received via tenderlink.com/waimakariri. or GETS - Government Electronic Tenders Service www.gets.govt.nz

Tenders will be opened in public. All tenders with an expected price of \$100,000 (GST exclusive) or less shall be opened in the presence of the tender secretary and at least one member of the management team. Tenders with an expected price over \$100,000 shall be opened in the presence of the tender secretary and two others from the management team or Council. An elected representative should be present for tenders expected to exceed \$500,000.

Council is accountable to the community through the Long term Plan and Annual Plan. All purchases (including tenders) of any goods and services which commits expenditure from the current year's Annual



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Plan shall be accepted by an officer with sufficient contractual authority as described in the delegations manual S-DM 1044. Monitoring of the procurement process will be undertaken by the Audit Committee and management team.

Variations within existing contracts, and committing council to an increase in the scope of works, may be authorised in accordance with the delegations manual S-DM 1044.

7 Sustainable Procurement

The Council recognises that procurement and contract management practices provide a key opportunity to maximise value for money and quality service delivery, as well as deliver tangible benefits for the local community, economy and environment – as articulated in the Council's Strategic Framework.

As such, the principles of sustainable procurement shall be recognised whenever possible in the assessment of the costs and benefits of procurement on a whole of life basis, as follows:

- (a) Think Local: The Council shall preference those suppliers that can evidence a positive economic footprint in the region. This includes contributing to the vibrancy and sustainability of the local economy, supporting job or market growth, as well as fostering opportunities for small and medium sized enterprises (SMEs).
- (b) Think Environmental: The Council shall encourage procurement decisions that have a positive impact on the natural environment and biodiversity, including the prudent use of natural resources, the minimisation of waste or hazardous substances, and efforts to reduce carbon or Greenhouse Gas (GHG) emissions.
- (c) *Think Social*: The Council shall encourage procurement decisions that maximise community benefits in terms of personal wellbeing, social cohesion, capital and inclusion, equal opportunities and participation. [SEP]

Whenever practicable, the Council shall give conscious consideration to sustainable procurement principles, including when undertaking cost-benefit analyses or weighted attributes assessments of potential goods and service suppliers.

8 Conflict of Interest

The Council shall ensure that procurement and contract management processes cannot be justifiably challenged on the basis of any real or undisclosed bias or conflict of interest.

All procurement and contract management decision-making processes shall include careful consideration of any actual, potential or undisclosed conflicts of interest.

Under no circumstances shall a staff member influence, advise or participate in a procurement or contract management activity where that employee has an actual, or undisclosed conflict of interest.

Every person on the Tender Evaluation Team (TET) must complete a declaration in writing that they have no actual or undisclosed conflict of interest. This includes those involved directly in procurement and contract management activities, as well as anyone who has the ability to influence key decisions (e.g. those holding delegated financial authority or monitoring performance).

Where there is uncertainty about whether there is a conflict, employees should discuss the potential conflict with the Contract Owner, Line or Group Manager or Chief Executive Officer. If in doubt, employees should at all times fully disclose a potential conflict or bias. Refer also to the Council Conflict of Interest Policy for further details.

Where the CEO is involved with procurement and/or contract management and identifies a potential conflict of interest, escalation shall be to elected members.



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It is never acceptable for a Council staff member to accept a bribe or inducement. Any such instances will be dealt with in strict accordance with the {Staff Code of Conduct Policy} and other applicable guidelines - see also the Council {Fraud Prevention Policy}.

As part of the procurement process the Council {Gifts and Hospitality Register} shall be reviewed to identify gifts and/or hospitality received by any person involved in a procurement process. Should these exceed a cumulative value of \$500 in the preceding 12 months the person will be precluded from taking any part in the procurement process.

9 Contract Management

The Council shall maintain a central database of all approved and/or active contractors, and ensure comprehensive records are held, including all third- party vetting; H&S approval; insurance coverage; contract review, renewal or expiration dates; deviations and variations.

All Council contracts shall have a delegated Contract Owner, who acts as the dedicated single point of contact and is responsible for the effective management and delivery of the contract in line with this Policy and all associated processes or guidelines. Duties include, but are not limited to:

9.1 Contract Negotiation

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

9.2 Contract Delivery

- (a) Contract Owners shall regularly monitor, audit and review contractor delivery against agreed milestones, deliverables or performance expectations over the life of the contract, including maintaining a regular audit programme, as required.
- (b) All contractor payments, performance bonds and other financial transactions shall be made in accordance with the terms of the contract and appropriate assurance of agreed performance delivery, in accordance with relevant Council financial delegations and authority.
- (c) Contract Owners shall engage relevant parties and establish variations or re-negotiate contract terms where appropriate.
- (d) Full records of all contract evaluations and performance monitoring activities (including any variations, renewals and cancellations) shall be held in accordance with the {Council document management guidelines and practices.}



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9.3 Escalation and Exit

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

10 Risk Management

The Council shall ensure that the costs, benefits and risk presented by procurement are identified, and appropriately reflected in the procurement and contract management methodology utilised.

Contract Owners shall work collaboratively with engaged providers to identify, assess and manage all risks associated with the goods or service procured, throughout the length of the contracted period.

All critical issues must be escalated and resolved appropriately to ensure the continued quality delivery of service expectations.

All risk management and mitigation strategies must be clearly documented as part of the procurement and contract management process.

11 Deviations

Deviation from the Council's procurement and contract management processes may be necessary due to circumstances beyond the control of Council. Such instances include:

- (a) A limited number of suppliers available in the market.
- (b) A different procurement methodology or process is stipulated by legislation or a professional/regulatory body.
- (c) An exceptional, urgent or emergency situation where immediate Council decision-making is required and is in the best interests of ratepayers.

In such instances, two members of the Management Team shall authorise the deviation prior to adoption, and if appropriate the decision ratified retrospectively by the CEO.

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

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

12 Record Keeping

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

Clear and comprehensive written records of all procurement and contract management activity shall be retained in accordance with Council document management policies and protocols. This includes market,



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tender and evaluation material, contracts and variations, performance reporting, correspondence and associated service delivery records

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

At a minimum, records shall be retained that demonstrate:

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

13 Confidentiality

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

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

14 Health and Safety

The Health & Safety at Work Act 2015 requires that an organisation must ensure the health and safety of workers (including contractors), and that organisations must consult, co-operate and co-ordinate activities with all other organisations who have health and safety duties in relation to the same matter (overlapping duties); so far as is reasonably practicable. WDC maintains contract health and safety management systems in order to achieve compliance with these requirements.

Suppliers for all contracts shall be required to meet a range of health and safety requirements throughout the life-cycle of the contract, which, depending on the nature of the contract, may include (but are not limited to):

- Health and safety pre-qualification
- Site specific safety plans
- Site inductions
- Incident reporting
- Site safety audits



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Contract close outs

In particular, all suppliers for contracts involving physical works shall be health and safety pre-qualified. This will mean that they are assessed at >50% via the SiteWise health and safety pre-qualification system as a minimum, or meet the requirements of another externally-audited pre-qualification system of equivalent or superior standard (this will be approved on a case-by-case basis by the WDC Health & Safety Team).

Suppliers can achieve health and safety prequalification before or during the tender period, but prequalification must be achieved prior to work commencing.

Where a decision is made to select a supplier who is not health and safety pregualified as the preferred tenderer (or who has a SiteWise score lower than any minimum score indicated in the tender documents), approval must be gained from the Management team. The reasons for the decision shall be reported (such as emergency works, or a sole supplier situation).

All further health and safety requirements for the duration of the contract shall be clearly defined within the contract documentation.

15 Links to legislation, other policies and community outcomes

WDC Ta Matou Mauri - Our Principles

Controller and Auditor-General Procurement Guidance for Public Entities June 2008

Ministry of Business, Innovation and Employment, Government Rules of Sourcing 2015

Local Government Act 2002 S3(c) promotes the accountability of local authorities to their communities. and S10 (b) has the purpose of local government as meeting the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses

All tenders which are subject to a New Zealand Transport Agency (NZTA) subsidy must comply with the requirements of NZTA. If there is any conflict between this policy and the NZTA requirements, then the NZTA requirements will take precedence to the extent of the inconsistency

Health and Safety at Work Act 2015

WDC Contract Admin Guidelines

QP-C1030 – Physical Works – Preparation of Request for Tenders

QP-C1031 - Physical Works - Inviting Tenders

QP-C1032 - Physical Works - Tender Evaluation

QP-C1042 - General Purchase - Inviting Tenders

QP-C1043 – General Purchase – Tender Evaluation

WDC Quality Policy

QP-C387 - Purchasing Procedures - Selection of Suppliers



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WDC Standard Contract Forms

QP-C494-AI Evaluation Report - Standard Tender Acceptance Report QP-C494-AG Evaluation Appendices – Our standard document for lowest price conforming contracts

16 Adopted

Adopted by Council on 5 February 2019.

8 Review

Reviewed every three years or earlier on request.