

# PROCUREMENT & CONTRACT MANAGEMENT POLICY



Approved by:	Executive Leadership Team		
Sponsor:	General Manager Corporate Services		
Department responsible:	Procurement & Contracts		
Date approved:	June 2020	Reviewed:	
Next review date:	June 2028	DOC ID:	

## 1 Purpose

- 1.1 The purpose of the DCC Procurement and Contract Management Policy (the 'Policy') is to articulate the DCC's commitment to the responsible, effective, and fit-for-purpose procurement of goods, services and contract management.
- 1.2 The Policy establishes the guiding principles for DCC's procurement and contract management practices, and seeks to ensure that:
  - 1.2.1 A robust framework is adopted across the DCC for procurement and the subsequent management of goods and services contracts.
  - 1.2.2 The DCC plans for, enters into, and manages all contracts in a manner that align to its obligations under Te Tiriti o Waitangi, facilitates DCC strategic and business objectives.
  - 1.2.3 DCC Staff understand their roles and responsibilities with regards to procurement and contract management and are appropriately skilled and trained to do so.
  - 1.2.4 The DCC achieves quality performance and cost-effective service delivery and within available budgets.
- 1.3 This Policy identifies the responsibilities and operational parameters for prudent procurement decision-making, and the effective management of contracts and associated legally-binding agreements. This policy is to be read alongside available guidance information ([Procurement and Contract Management Toolbox - Home \(sharepoint.com\)](#)).
- 1.4 Procurement plays a vital role in the delivery of DCC outcomes, with a significant variety of goods, services and works being purchased from third party suppliers.
- 1.5 The DCC recognises that rigorous procurement and contract management practices:
  - (a) Ensure the DCC delivers value for money, quality and safety and wellbeing outcomes for all stakeholders.
  - (b) Underpin the performance and delivery of the DCC's strategic and business objectives.
  - (c) Provide opportunities for business sustainability, strategic growth, and improvement.
  - (d) Ensure full probity in its procurement practices and decision-making processes.
- 1.6 The DCC also recognises its primary responsibility to ensure probity, and the prudent

expenditure of rate payer funds.

## 2 Scope

2.1 This policy applies to:

- 2.1.1 All DCC staff, including temporary staff, contracted staff, contractors, and subcontractor's workers if they are procuring on DCC's behalf.
- 2.1.2 Any person who is involved in the operation of the DCC, including elected members, volunteers and those people with honorary or unpaid staff status.
- 2.1.3 Every business, service or activity of the DCC – with the exception of employment contracts.

2.2 This policy does not apply to:

- 2.2.1 The purchase or sale of land.

## 3 Definitions

- 3.1 **Bribe or inducement:** the giving or receiving, whether directly or indirectly, of something of value to influence a (procurement or contract management) transaction.
- 3.2 **Contract:** a formal, documented agreement between the DCC and a supplier or contractor that commits DCC in legal or financial terms to the acquisition of goods and services.
- 3.3 **Contracted staff:** non-permanent employees of the DCC, including consultants and contractors employed on fixed or short-term contracts who are undertaking business activities on behalf of the DCC.
- 3.4 **Contract Management Framework:** a formal framework which sets out good contract management practices and how DCC staff members and contractors (managing contracts on DCC's behalf) are expected to manage contracts as well as how they are expected to utilise the DCC contract management solution.
- 3.5 **DCC Contract Officer:** a DCC staff member who manages, negotiates and administers contracts with a supplier or a contractor and is responsible for associated record-keeping.
- 3.6 **DCC Contract Manager:** a designated DCC staff member who is responsible for the ongoing oversight and risk management of contracted goods or services, and who has the authority to contract on the DCC's behalf.
- 3.7 **DCC Health, Safety & Wellbeing (HSW) partner:** to provide support in developing a safety culture across the DCC. They will provide advice and support to management, staff and contractors to enable them to meet their respective HSW obligations of this policy.
- 3.8 **Direct Family:** by blood, or de-facto (e.g., a spouse, parent, brother, sister, child, uncle, aunt, niece or nephew, grandparent or grandchild).
- 3.9 **Embodied Emissions:** emissions that are required for extraction, processing, manufacture and delivery of materials, the building process and demolition and disposal of materials.

- 3.10 **Emissions:** greenhouse gasses emitted into the atmosphere.
- 3.11 **Enabled Emissions:** emissions produced due to the use of an asset or infrastructure (e.g., emissions from cars that drive on the road).
- 3.12 **End-of-Life Emissions:** emissions associated with the deconstruction/demolition and disposal of an asset or infrastructure.
- 4** **Living Wage:** the remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing, and other essential needs including provision for unexpected events. DCC follows the guidance/criteria as set by [Living Wage Aotearoa](#).
- 4.1 **Local Business:** a locally owned business or a corporate business with a local operation that provides goods, works, or services, based in the wider Dunedin territory. The Dunedin City Council acts as the territorial authority for Dunedin, which covers 3,340kms square kilometers from north of Waikouaiti to the Taieri River in the south and inland to Hyde, including 200km of coastline.
- 4.2 **Market:** all potential providers of a good or service that may be available to the DCC.
- 4.3 **Operational Emissions:** emissions generated during the operational or in-use phase of a building or infrastructure. This includes the use, management and maintenance of a product or structure.
- 4.4 **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.
- 4.5 **Sustainable Procurement:** securing goods and services in a way that recognises the whole of life costs and/or benefits of the goods or service, and delivers benefits for the local Otago community, economy and environment. *Key considerations include alignment with the DCC's Waste Management and Minimisation, and Zero Carbon Policy.*
- 4.6 **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, HSW in design, transport, delivery and disposal.
- 4.7 **Whole of Life Emissions:** emissions associated with the entire life of an asset. This includes emissions across the full supply chain of construction materials and products, construction processes (and the waste arising), on-going operations, repair and maintenance, and processes at the end-of-life of a building or infrastructure.

## 5 Principles

- 5.1 DCC procurement and contract management practices shall ensure that the DCC plans for, enters into and manages its procurement and contract management activities in a manner that maximises value for money and quality service delivery, realises business, strategic and community expectations and incorporates DCC's legal, ethical, HSW responsibilities.

- 5.2 DCC procurement and contract management will be guided by the NZ Government Procurement Rules (4th edition), the DCC Contract Management Framework, Te Taki Haruru, the DCC Zero Carbon Policy, the Transport Agency Procurement Manual (2019 update) and DCC Health, Safety & Wellbeing Policies and Procedures.
- 5.3 DCC procurement and contract management will apply a strategic procurement process consistent with the Ministry of Business, Innovation and Employment (MBIE) procurement lifecycle consisting of planning, sourcing and managing.
- 5.4 The following ten principles should be reflected in all procurement and contract management practices:
1. The purchasing power of the DCC will be harnessed for the realisation of its strategic and business objectives, as well as the benefit of the local community.
  2. The DCC will at all times act with integrity, impartiality and in a fair and reasonable manner in its dealings with other parties.
  3. The DCC 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 perceived bias or conflict of interest.
  4. Open and effective competition will be encouraged – all eligible suppliers shall have full and fair opportunity to participate.
  5. The DCC shall take into consideration the whole of life costs and/or benefits associated with procurement – spanning design, manufacture, delivery, HSW, operation and disposal.
  6. Consideration will be given to achieving the principles of Sustainable Procurement and Broader Outcomes as per section 6 of this policy.
  7. All contracts shall clearly identify the functional, performance and/or technical deliverables and key performance indicators, including Health and Safety targets and responsibilities, that reflect DCC's expectations and quality standards, and establish effective means to measure, monitor and manage their delivery.
  8. All contracts will be actively and appropriately managed, in line with the DCC contract management framework, in a manner that fosters collaboration with suppliers and contractors, maximises value for money as well as supports continuous innovation and improvement.
  9. Procurement and contract management processes will comply with all applicable statutory obligations, recognise DCC's business, strategic and community expectations, and reflect relevant sector, central and local government good practice standards and guidelines.
  10. All procurement and contract management risks will be identified and managed effectively throughout the life cycle of the goods or service.

## **6 General Requirements**

- 6.1 DCC procurement and contract management practices shall at all times be fair, equitable and transparent, and abide by the principles and requirements set out in this Policy.
- 6.2 Procurement decision-making practices shall ensure:
- (a) Integrity, prudent decision-making; and
  - (b) Open and effective competition, subject to appropriate due diligence and probity measures; and
  - (c) Value for money on a whole of life basis, including consideration of the principles of sustainable procurement whenever practicable; and
  - (d) Effective identification, assessment and management of risk from the planning phase and throughout the life of the procurement or contracted activity including, but not limited to, safety in design and safe work planning followed by ongoing performance monitoring; and
  - (e) Recognition of, and compliance with all relevant statutory and regulatory obligations; and
  - (f) Collaboration, innovation and recognition of the collective purchasing power of the DCC including the use of 'All of Government' contracts; and
  - (g) Consideration of performance and delivery outcomes from previous procurement with prospective suppliers.
- 6.3 The DCC shall ensure that all business activities have access to appropriate procurement and contract management resources, skills, knowledge and expertise.
- 6.4 In addition to the sustainable procurement measures specified below, the DCC shall ensure that procurement and contract management activities give effect to the Zero Carbon Policy. This includes reducing whole-of-life emissions, which encompasses embodied, operational, enabled and end-of-life emissions.
- 6.5 The DCC shall ensure effective procurement and contract management process controls and monitoring mechanisms, including maintaining a dedicated DCC Tenders Board and recognised operational processes, guidelines, tools and templates.
- 6.6 The Contract Officer shall ensure all relevant documentation is complete, accurate, executed properly and filed appropriately.
- 6.7 A failure to adhere to the principles, obligations and requirements as outlined in this Policy, and associated DCC procurement and contract management procedures and guidelines, may result in an investigation into the failures.

## **7 Sustainable Procurement and Broader Outcomes**

- 7.1 The DCC 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.
- 7.2 The DCC's procurement activities will be consistent with, and support, DCC's Strategic Framework, Te Taki Haruru and other plans and policies (e.g., the Waste Minimisation and Management Plan, Zero Carbon Policy).

- 7.3 As such, the principles of sustainable procurement will be recognised whenever practicable in the assessment of the costs and benefits of procurement *including when undertaking cost-benefit analyses or weighted attributes assessments of potential goods and service suppliers*, as follows:
- (a) *Think Local:* The DCC 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 DCC shall encourage procurement decisions that align with emissions reduction ambitions as laid out in the Zero Carbon Policy and the procurement emissions standards and have a positive impact on the natural environment and biodiversity, including through the prudent use of natural resources and the minimisation of waste or hazardous substances.
  - (c) *Think Social:* The DCC shall encourage procurement decisions that maximise community benefits in terms of personal wellbeing, social cohesion, capital and inclusion, equal opportunities, and participation. For any sourcing over \$100,000, consideration should be given to whether payment of the Living Wage, is appropriate for the ensuing contract.
- 7.4 Any consideration or weighted attribute assigned to sustainable procurement must be a minimum of 10%, unless specifically waived by Tenders Board.
- 7.5 The Executive Leadership Team (ELT) may issue a directive to provide greater emphasis on Sustainable Procurement overall, or relative weighting between different Sustainable Procurement criteria. Exceptions to these directives need to specifically be approved by the Tenders Board.
- 7.6 Where a lowest price conforming assessment methodology is utilised, Sustainable Procurement may be a pass/fail consideration.

## **8 Conflict of Interest**

- 8.1 The DCC shall ensure that procurement and contract management processes cannot be justifiably challenged on the basis of any actual or perceived bias or conflict of interest.
- 8.2 All procurement and contract management decision-making processes shall include careful consideration of any actual, potential or perceived conflicts of interest.
- 8.3 Under no circumstances shall a staff member influence, advise or participate in a procurement or contract management activity where that employee has an actual, potential or perceived conflict of interest – subject to very limited circumstances (see point 7.6 below).
- 8.4 Every person involved in the decision-making process shall declare in writing that they have no actual or potential for a perceived 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).
- 8.5 Where there is uncertainty about whether there is a conflict, employees should discuss the potential conflict with the Procurement Facilitator, their Executive Manager or the Probity Auditor in the first instance. If in doubt, employees should at all times fully disclose a potential conflict or bias. Refer also to the DCC Conflict of Interest Policy for

further details.

- 8.6 Where a DCC staff member has a conflict of interest, but also possesses specific expertise that is deemed essential to the evaluation process and which is not readily available from any other source (including those external to the DCC), a member of ELT may approve that person being able to discuss the project with the evaluation panel.
- 8.7 Where the CEO is involved with procurement and/or contract management and identifies a potential conflict of interest, escalation shall be to the Chair of the Audit and Risk Committee.
- 8.8 It is never acceptable for a DCC staff member to be involved in sourcing or contract management activities where their direct family works for the supplier involved.
- 8.9 It is never acceptable for a DCC 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 DCC Fraud and Bribery Prevention Policy.
- 8.10 Anyone involved in a sourcing activity must formally declare all gifts and or hospitality offered to themselves and/or direct family members in the past 15 months. Should these exceed a cumulative value of \$500, then specific approval from the CEO is required for the person to be allowed to take any part in the procurement process.
- 8.11 Anyone involved in a sourcing event should not accept gifts or hospitality whilst the sourcing event is ongoing.

## **9 Sourcing Thresholds**

- 9.1 All staff involved in the procurement and contract management of goods and services must have appropriate knowledge of, and comply with all relevant DCC policies, procedures and guidelines, as well as applicable legislation and professional standards of practice with regards the procurement and contract management process.
- 9.2 Market scoping and the evaluation of potential goods or service suppliers shall at a minimum reflect the following methodologies (value):
  - (a) Sourcing with a cumulative value of less than \$25,000 can be direct sourced.
  - (b) Sourcing with a cumulative value of more than \$25,000 and less than \$100,000 requires at least three written quotations actively to be sought.
  - (c) Sourcing with a cumulative value of more than \$100,000 requires an open and competitive process (RFP/RFT) and Tender Board approval.
  - (d) Sourcing with a cumulative value of less than \$100,000 should be referred to the Tenders Board where the procurement facilitator considers that the level of risk (potential, perceived or actual) associated with the procurement requires Tenders Board review.
  - (e) Sourcing via an All-of-Government arrangement requires, where practicable, at least two written quotes. Where the All-of-Government arrangement is utilised regularly, DCC staff should rotate the available suppliers if practicable unless a situation arises where a particular expertise is required in which case this clause does not apply.
  - (f) Sourcing a NZTA part funded activity:
    - i. With a cumulative value up to \$100,000 may appoint directly.

- ii. With a cumulative value between \$100,000 and \$200,000 requires three written quotes.
- iii. With a cumulative value over \$200,000 requires an open and competitive process and Tender Board approval.

9.3 Further to S5.3 of this Policy:

(a) Evaluation Teams for:

- i. all NZTA part funded activity; and
- ii. all other procurement over \$5M;

must include at least one person who meets the experience/qualification requirements of the NZTA Procurement Manual.

- (b) For all other Evaluation Teams, the Procurement Facilitator should consider whether the inclusion of at least one person who meets the experience/qualification requirements of the NZTA Procurement Manual would be beneficial.

9.4 Procurement of goods and/or services over the \$50,000 threshold requires a formal contract to be put in place. All contracts must be approved and signed by a DCC staff member with appropriate delegated authority. No external parties are authorised to sign contracts on behalf of DCC.

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

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

9.7 All contracts prepared by the DCC shall utilise approved and standardised contract templates whenever possible. If no applicable template exists, the Contract Officer and/or Manager shall seek assistance from the DCC Legal team or Procurement team to prepare a contract.

9.8 No contractual arrangement entered into by the DCC shall be greater than 10 years in its entirety, including rights of renewal, unless approved by ELT or by Council Resolution. The DCC shall not enter into contracts that are “evergreen” (i.e., of indefinite length).

## 10 Probity

10.1 It is essential that Probity is evident throughout procurement activities.

10.2 Probity:

- i. Requires equity within procurement processes and controls.
- ii. Provides fairness and transparency in our procurement decisions.

10.3 To ensure Probity:

- (a) the Procurement and Contracts Manager, or suitably qualified nominee who is not already on the evaluation panel, acts as Probity Auditor for any procurement process between \$1M up to \$5M.



- (b) Tenders Board reserves the right to request a Probity Auditor to be appointed for any procurement process between \$250K and \$1M.
- (c) the Procurement and Contracts Manager appoints an external independent Probity Auditor for all procurement activities that:
  - i. are above \$5M (Whole of Life), or
  - ii. are considered high risk.

## **11 Contract Management**

- 11.1 The DCC shall maintain a central database of all approved and/or active contracts, and ensure comprehensive records are held, including all third-party vetting; HSW approval; insurance coverage; contract review, renewal or expiration dates; deviations and variations.
- 11.2 All DCC staff shall manage contracts as set out in the DCC Contract Management Framework.

## **12 Risk Management**

- 12.1 All Procurement and Contract Management activities must follow DCC risk management practices in line with the DCC Risk Management Policy and Guidelines.
- 12.2 Prior to contract award, appropriate due diligence should be undertaken to minimise risk to the DCC. For new suppliers, this should include a credit and/or reference check.
- 12.3 The DCC shall ensure that the costs, benefits and risk presented by procurement are identified, and appropriately reflected in the procurement and contract management methodology utilised.
- 12.4 DCC Contract Officers and Managers shall work collaboratively with engaged providers to identify, assess, manage and review all risks and issues associated with the goods or service procured, throughout the length of the contracted period.
- 12.5 All critical issues must be escalated and resolved appropriately to ensure the continued quality delivery of service expectations.
- 12.6 All risk management and mitigation strategies must be clearly documented as part of the procurement and contract management process.

## **13 Health, Safety and Wellbeing (HSW)**

- 13.1 Prior to undertaking any work for the DCC, all contractors must apply for, and be approved against a set of eligibility requirements, including insurance cover, Health, Safety & Wellbeing (HSW) and relevant codes of practice.
- 13.2 The Contract Officer must ensure that the requirements of the Health and Safety at Work Act 2015 are satisfied and that all parties are aware of their associated responsibilities and the manner in which they are to be discharged and as such, is expected to:
  - (a) be a HSW leader by driving excellence in performance and behaviour.
  - (b) confirm that Critical Risks associated with the contract are clearly identified (inclusive of foreseeable risks), manage them using the hierarchy of controls,

maintain effective control measures, and review and revise control measures to ensure they are effective. ensure that all parties to a contract communicate, co-operate and co-ordinate their work plans to effectively manage overlapping HSW risks. The Contract Officer must work with all parties to reduce risk to 'As Low As Reasonably Practicable' (ALARP).

- (c) verify that HSW in Design is considered in the process of managing health and safety risks throughout the lifecycle of structures, plant, substance or other products. Designers must ensure that they make work healthy and safe from the start of the design process.
  - (d) set clear HSW responsibilities and expectations of the Contract Officer and regularly monitor to ensure expectations are being met.
  - (e) check that HSW events of significance are appropriately reviewed to identify additional preventative measures that may be required and ensure proper communication and documentation is recorded in the DCC's HSW management system (VAULT).
- 13.3 The Contract Officer must report all HSW risks they identify to the Contract Manager and assist the Contract Manager with the above requirements.
- 13.4 The Contract Officer and Manager will ensure that any change to the contracted work will trigger a review of the safety plans in their entirety.
- 13.5 The DCC HSW Partners shall provide policy, procedure and guidance to enable Contract Officers and Contract Managers to meet these obligations. Detailed Health and Safety guidance can be found in the HSW Toolbox 'Contractor Management' page.

## **14 Deviations**

- 14.1 Deviation from the DCC's procurement and contract management processes may be necessary or desirable due to circumstances beyond the reasonable control of DCC. 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 DCC decision-making is required and is in the best interests of ratepayers.
  - (d) Whilst undertaking a properly procured contract for DCC it becomes apparent that an extension/variation to the scope of contract would provide significant economic, logistical and/or timing benefits.

In such instances the deviation needs to be authorised by the Tenders Board. In urgent or emergency situations this authorisation can be sought retrospectively.

## **15 Record Keeping**

- 15.1 All procurement and contract document management processes shall adhere to relevant statutory and regulatory obligations, including the Public Records Act 2005.
- 15.2 Clear and comprehensive written records of all procurement and contract management activity shall be retained in accordance with DCC document management policies and

protocols. This includes market, tender and evaluation material, contracts and variations, performance reporting, correspondence and associated service delivery records.

- 15.3 Procurement and contract management records shall provide a clear, transparent and accessible audit trail so that DCC staff, auditors and/or legal advisors may readily establish the process and rationale for any procurement decisions made and actions taken.
- 15.4 At a minimum, records should be retained that demonstrate:
- (a) DCC 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 DCC 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 HSW assessments, mitigation controls, site planning and maintaining appropriate insurance cover. Critical risks (those that could cause serious harm) shall be identified separately and effective controls shall be implemented and reviewed periodically.
  - (f) All employees involved in decision-making have affirmed that they are free from any actual or perceived conflicts of interest.

## 16 Confidentiality

- 16.1 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 DCC and third-party intellectual property.
- 16.2 Confidentiality obligations continue throughout the procurement and contract management process, as well as after the contract has terminated or expired.

**Relevant Legislation:** Not Applicable

**Associated Documents:**

- 16.1 DCC Procurement Toolbox (Connect)
- 16.2 Art and Creativity in Infrastructure Policy
- 16.3 Committee Structure and Delegations Manual
- 16.4 DCC HSW Policy
- 16.5 DCC HSW Toolbox

- 16.6 Significance and Engagement Policy
- 16.7 Conflict of Interest Policy
- 16.8 Fraud, Bribery and Corruption Prevention Policy
- 16.9 Gifts and Hospitality Policy
- 16.10 Zero Carbon Policy
- 16.11 Human Resources Manual
- 16.12 Staff Delegations Manual
- 16.13 Code of Conduct
- 16.14 The Waste Minimisation and Management Plan
- 16.15 Procurement and Contract Management Framework
- 16.16 Risk Management Policy and Guidelines
- 16.17 Information Management Policy and Guidelines
- 16.18 Asset Disposal Write Off Policy
- 16.19 Tenders Board Terms of Reference