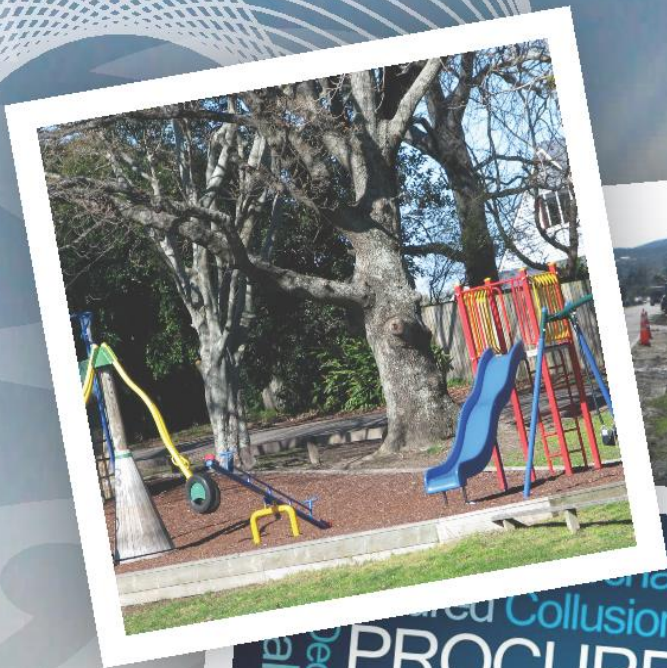


# Procurement Rules 2019



# Record of Amendments

<b>Version</b>	<b>Date</b>	<b>Summary</b>
1	5 December 2019	First reviewed version following triennial election 2019.
2	30 September 2021	Amendments to include climate change considerations

# PROCUREMENT RULES

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# Gisborne District Council Procurement Rules

## 1. Background

### A. Overview

The Procurement Rules are to be used in conjunction with the Procurement Policy and the Procurement Guidelines.

Council's current approach to procurement was adopted on 19 December 2019 and consists of three main documents (together, the **Procurement Framework**):

- **The Procurement Policy.** This document sets out the core principles and objectives governing Council procurement spending and sets out the applicable financial thresholds.
- **The Procurement Guidelines.** This document sets out and provides guidance on the matters to be considered in the procurement process and the factors to be taken into account in selecting the procurement method.
- **The Procurement Rules.** This document sets out the procurement methods and processes to be used and complied with. This is a "how-to" document.

In particular, the Procurement Rules cover the following areas of the procurement lifecycle:



By way of context, the term 'procurement' covers all aspects of acquiring and delivering goods, services and works (both refurbishment and new construction). It starts with identifying the need and finishes with either the conclusion of a service contract or the end of the useful life and disposal of the asset. Procurement also includes the contract and relationship management with chosen suppliers. Collectively, this is what is referred to as the procurement lifecycle.





## **B. Scope and audience**

The Procurement Rules apply to all Council employees and any other persons involved in procuring goods and/or services (which includes consultant services) under any contractual arrangements. The Procurement Rules apply to all contract types, including:

- When purchasing outright
- When purchasing through hire-purchase
- When renting or leasing
- Where there is an option to buy
- Public Private Partnerships
- Contracts accessed through a third-party commercial supplier or broker.

For the purposes of the Procurement Rules, the following activities are deemed not to be procurement activities, meaning the Procurement Rules do not apply:

- Employing staff (excluding the engagement of contractors and consultants)
- Disposals and sales by tender
- Investments, loans and guarantees
- Gifts, donations and any form of unconditional grants
- Statutory appointments.

## **C. Financial thresholds**

The policy and procedures in this document are intended to provide guidance for all staff (and others) who have delegated authority for procurement. It also applies to the considerations by Council – in its governance role – for funding, procurement and purchasing decisions.

Council requires that all procurement of works, goods or services valued over \$100,000 (GST exclusive) will be subject to a competitive procurement process and the type of process (for example, seeking quotations or using a tender or proposal process), will take into account the specific type, size, complexity and level of risk of the procurement. This value threshold is still subject to an individual's delegated authority, meaning procurement decisions may need to be escalated to an individual with higher delegated authority even if the contract value is less than \$100,000 (GST exclusive).

It is noted that in the area of roading and transport procurement where there is New Zealand Transport Agency (NZTA) assisted funding, then Council will be guided by the NZTA Procurement Manual, both for physical works and professional services. Council staff should also be aware of any other funding arrangements which may affect the particular procurement in question.

#### **D. Source of rules and applicable legislation**

The Procurement Rules are based on, but not limited to, the Government Procurement Rules (4th Edition), and the Office of the Controller and the Auditor-General's "Procurement guidance for Public Entities", both of which are updated from time to time.

The Procurement Rules are also aligned with the following legislation (or the latest version of such legislation), which Council is to comply with:

- Construction Contracts Act 2002
- Commerce Act 1986
- Contract and Commercial Law Act 2017
- Local Government Act 2002
- Official Information Act 1982
- Fair Trading Act 1986
- Health and Safety at Work Act 2015
- Local Government Official Information & Meetings Act 1987
- Public Records Act 2005.

Council's legal team is available to provide assistance where there are questions regarding compliance with relevant legislation.

#### **E. Legal advice**

Council's legal team is available to provide help and assistance in relation to legal issues arising from the procurement and contract process. For example, if the proposed procurement is unfamiliar or differs substantially from previous procurement carried out by Council, then it may be appropriate for Council staff to seek advice from the legal team to understand any legal ramifications affecting the particular procurement. In this case, Council's legal team should be contacted as soon as possible in the procurement process to minimise the risk of negative legal ramifications eventuating down the track.

## **2. Purpose**

The purpose of the Procurement Rules is to ensure a clear, simple and flexible approach is adopted to procuring goods, services and works by Council which is consistent with the latest Government Procurement Rules. The Procurement Rules set out best practice when carrying out a competitive procurement process, but it is understood that there may be particular circumstances where it may not be appropriate to fully comply with all aspects of the Procurement Rules. While this may be the case, all Council procurement must be carried out in accordance with Council's guiding principles, as set out below.



The Procurement Rules will not apply to all competitive procurement processes. For example, the Procurement Guidelines provide that, in the event of an emergency, Council may dispense with all or parts of the Procurement Rules if it needs to react quickly to genuinely unforeseen events.

Words and phrases that are capitalised or are in italics have the meanings given to them in **Appendix 1 (Definitions)** of the Procurement Rules.



### 3. Guiding principles and procurement objectives

As outlined in the Procurement Policy and Procurement Guidelines, in making procurement decisions, Council will have regard to the following key principles governing public spending:

- **Accountability:** Council will be accountable for its performance and be able to give complete and accurate accounts of the use it has put public funds to, including funds passed on to others for particular purposes. Council will also have suitable governance and management arrangements in place to oversee funding arrangements.
- **Openness:** Council will be transparent in its administration of funds, both to support accountability and to promote clarity and shared understanding of respective roles and obligations between Council and any external parties entering into funding arrangements.
- **Lawfulness:** Council must act within the law and meet its legal obligations.
- **Fairness:** Council has a general public law obligation to act fairly and reasonably. It must be, and must be seen to be, impartial in its decision-making. Council may also at times need to consider the imbalance of power in some funding arrangements, and whether it is significant enough to require a different approach to the way it conducts the relationship.
- **Integrity:** Anyone who is managing public resources must do so with the utmost integrity. The standards applying to public servants and other public employees are clear, and Council needs to ensure when funding other organisations that it expects similar standards from them.

In doing so, Council will carry out the funding and procurement of works, goods and services in a manner that will support Council's community outcomes, agreed levels of service, organisational goals, strategic challenges and its values.

- **Sustainability:** Being sustainable involves taking into account the social, economic, environmental and cultural wellbeing of people and communities, the need to maintain and enhance the quality of the environment, and the needs of future generations. Throughout the procurement process, Council staff will consider matters such as economic sustainability, social sustainability, environmental sustainability and cultural sustainability to inform sustainable procurement decision making.

In addition to the core principles outlined above, Council has identified its own procurement objectives which align with Council's vision, values, strategy and community outcomes. These objectives are part of Council's decision-making framework and are intended to promote regional value for the Tairāwhiti region and inform sustainable procurement decision making. This means Council seeks to partner with contractors and suppliers who can show that they will be and are proactively contributing to the Tairāwhiti region in line with the objectives outlined below. These procurement objectives are set out in the Procurement Policy and relate to facilitating achievement of:

- Economic development
- Social responsibility
- Environmental sustainability



- Cultural sustainability.

## 4. Planning procurement

### A. Procurement plan

Council should conduct appropriate planning based on the specific type, size, complexity and risk of each procurement.

A procurement plan should be prepared for any procurement which Council determines under the Procurement Guidelines is to be subject to a competitive procurement process.

The procurement plan should inform the procurement method that is to be used for the particular procurement project (see Council's Procurement Guidelines for detail on how to select the best procurement method).

The procurement plan should include (at a minimum):

- key project information
- a sourcing plan
- the procurement method and why chosen
- any exclusions or exemptions and rationale for it
- contract information
- the budget (including for procurement)
- risks and probity
- a timetable.

A template procurement plan checklist for use by Council when planning a new procurement is included as **Appendix 2 (Procurement Plan checklist)**.

### B. Evaluation plan

An evaluation plan should be prepared (in conjunction with the procurement plan) for any procurement which Council determines under the Procurement Guidelines is to be subject to a competitive procurement process.

The evaluation plan must be finalised before Council approaches the market.

An evaluation plan should include:

- **Pre-conditions:** Council may include essential pre-conditions for participation in a procurement process. Suppliers must meet all of the pre-conditions to be eligible to be assessed against the evaluation criteria. Pre-conditions must be limited to the following critical areas:
  - legal capacity
  - financial capacity
  - commercial or operational capacity

- technical capacity.
- **Evaluation criteria:** non-mandatory criteria that compliant responses will be fully evaluated against, for example:
  - qualifications and experience
  - capacity

- Broader Outcomes / public value considerations – **Appendix 3 (Procurement Objectives – supplier considerations)** provides some useful examples of questions for Council to consider or ask suppliers as part of the evaluation criteria. These questions reflect Council’s procurement objectives, as set out in the Procurement Policy
- Pricing.
- How the evaluation panel will be appointed.
- The process the evaluation panel will use to evaluate responses, as determined in accordance with the Procurement Guidelines.
- Form of contract to be used e.g NZS 3910, FIDIC, CCCS (see Council’s Procurement Guidelines for guidance on choosing a contract type).

## 5. Approaching the market

### A. Overview: Conducting a competitive procurement process

If during the procurement planning process, Council determines that a competitive procurement process is to be undertaken, then Council shall consider and follow the steps outlined in this section “Approaching the market”.

If Council considers that it is justified in not carrying out a competitive procurement process, this justification must be supported by proper documentation in accordance with the requirements provided in the Procurement Guidelines, including the requirement to record the procurement decision and relevant justification in the Procurement Register.

### B. Open advertising

Council should openly advertise the contract opportunity by:

- listing the contract opportunity on GETS (or other publicly available tendering online platform – see ‘Note’ below)
- publishing a Notice of Procurement on GETS (or other publicly available tendering online platform – see ‘Note’ below)
- providing access to all other relevant procurement documents.

**Note:** The Procurement Rules refer to Council publishing various information on GETS. While GETS is the preferred website for Council staff to use, other publicly available tendering online platforms may be used by Council staff, if an alternative online platform is considered appropriate for the nature of the procurement in question.

#### **Notices of Procurement**

Examples of Notice of Procurement documents include:

- Request for Quote (RFQ)
- Expression of Interest (EOI)

- Registration of Interest (ROI)
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Invitation to Participate (ITP) in a procurement process
- Invitation to Qualify for a Pre-qualified Suppliers List.



Each Notice of Procurement should set out all the information that suppliers need to prepare and submit meaningful responses including which procurement process is being used. i.e single-stage or multi-stage process.

Each Notice of Procurement should contain the following information:

- Council's full name and address
- the name and contact details of Council's contact person
- a description of the goods, services or works and any technical specifications, plans, drawings or instructions
- a description of the Broader Outcomes the supplier is expected to deliver or Council is seeking to achieve
- the quantity (if known) or estimated quantity of the goods, services or works
- the estimated timeframe for delivering the goods, services or works, or the estimated length of the contract and any options relating to the length of the contract (e.g 3 + 2 + 1 years)
- any service levels, response times or other performance measures suppliers will need to meet
- any conditions for participating in the procurement process, including any pre-conditions or certificates or standards the supplier must meet
- any limitations on the number of suppliers that may be shortlisted
- all evaluation criteria Council will use to assess responses
- unless the price is the only criterion, an indication of the relative importance of each evaluation criterion
- the deadline and address for submitting responses.

Notices of Procurement should be made available on GETS free of charge to suppliers.

***Other procurement documents***

Examples of relevant procurement documents include:

- drawings and plans
- detailed technical specifications
- reports
- policy statements relating to Broader Outcomes
- engineering plans.

Where possible, other procurement documents should be made available on GETS alongside the Notice of Procurement. If it is not possible to make other procurement documents available on

GETS, the Notice of Procurement should state how suppliers can obtain a copy of the relevant documents from Council, and Council must promptly provide such documents upon request.

Other procurement documents should be made available free of charge to suppliers.

***Council nominated contact person***

Every Notice of Procurement should include the name of the Council's contact person for the relevant procurement.

***Timeframes***

Council must allow a sufficient time period for suppliers to respond to a Notice of Procurement. When calculating this time period Council must act in good faith and use sound judgement.

Council must calculate time periods for suppliers to respond in clear Business Days. Other than in exceptional circumstances, no supplier should be given more or less time than any other supplier, including both domestic and international suppliers.

The key factors to take into account when calculating a sufficient time include:

- the nature and complexity of the procurement
- the type of information and level of detail suppliers need to provide in their responses
- the nature of the goods, services or works
- how simple or difficult it is to describe the deliverables
- the level of risk
- the extent of any anticipated subcontracting or the likelihood of any joint bids
- how critical the procurement is to Council’s success
- the time it takes for domestic and foreign suppliers to submit responses, particularly if Council has asked suppliers to deliver hard copies
- the impact on suppliers of public holidays.

***Minimum timeframes***

The following minimum time periods must be applied (unless there are valid circumstances necessitating non-compliance) for suppliers to respond to the following types of Notices of Procurement:

	<b>Type of process</b>	<b>Minimum time period</b>
<b>One-step Process</b>	RFQ	13 Business Days
	RFT/RFP	25 Business Days
<b>Multi-step Process</b> • <b>Step One</b>	ROI/ITP	20 Business Days
<b>Multi-step Process</b> • <b>Step Two</b>	RFT/RFP	25 Business Days

Where appropriate, Council may apply the ‘allowable reductions’ provided for in the Government Procurement Rules when calculating the minimum time period for suppliers to respond to a Notice of Procurement (see Rules 31–34 of the Government Procurement Rules for information on the different ‘allowable reductions’).



It is noted that in the area of roading and transport procurement where there is New Zealand Transport Agency (NZTA) assisted funding, then Council will be guided by the NZTA Procurement Manual which provides that generally no less than 15 working days must be allowed for the preparation of tender submissions.

### ***Changes to procurement process***

Council may make changes to its procurement process or its requirements (including its evaluation criteria) after a Notice of Procurement has been published on GETS and before the deadline for responses closes.

If Council does need to make any changes to its procurement processes or requirements, it must notify all participating suppliers of such changes at the same time and must give suppliers enough time to respond to the changes.

### ***Intellectual property***

If Council's procurement of goods, services, or works involves the supplier creating new intellectual property, Council may – as good practice – set out in its Notice of Procurement its intentions regarding ownership, licensing and future commercialisation of that intellectual property. Any questions relating to intellectual property rights may be referred to Council's legal team for consideration.

### ***Responding to queries***

Suppliers may ask questions about any Notice of Procurement. Council must promptly reply to all questions and reasonable requests for information from suppliers.

If Council is unable to promptly reply to a question, it should consider extending the deadline for responses.

If Council wishes to disclose advantageous information to a supplier in response to a question, it must make this information available to all suppliers at the same time.

When Council responds to a supplier's question, it must not discuss or disclose another supplier's confidential or commercially sensitive information.

## **C. Evaluating responses**

### ***Evaluation panel***

As soon as possible in a procurement process, Council should establish an evaluation panel which shall be responsible for implementing the evaluation plan, evaluating the responses, and selecting the successful supplier/s (if any).

The evaluation panel should be comprised of persons with suitable experience with reference to the specific type, size, complexity and risk of the procurement. The type and value of procurement in question is only one factor in determining suitability of experience for an evaluation panel.

### ***Conflicts of interest***

Before an evaluation process begins, each prospective member of the evaluation panel must complete a disclosure of interest form in accordance with the Procurement Guidelines and Council's Conflicts of Interest policy (refer to the Procurement Guidelines for more information on Council's approach to conflicts of interest and disclosures).

### ***Evaluation process***

Once appointed, the evaluation panel will meet together to evaluate the responses.

The evaluation panel will evaluate each response in accordance with the stated evaluation criteria as specified in the evaluation plan (where applicable) and form a consensus score for each supplier.

The evaluation panel will provide a recommendation of its preferred supplier to the approving authority in accordance with Section 5 (Awarding the contract). Council must ensure that during this evaluation process all suppliers' responses are treated fairly.

Written records should be kept of all evaluation panel meetings, supplier scores and decisions of the evaluation panel.

### ***Non-compliant responses***

To be considered for an award of contract, a supplier needs to:

- submit a response in writing (including through electronic means or an e-procurement system)
- comply with all pre-conditions (if any), or other conditions for participating in the contract opportunity.

Late and/or non-compliant responses may be considered if Council's Notice of Procurement and other procurement documentation allows for this and if there is no prejudice to any other supplier.

The decision to consider, or not to consider, a late and/or non-compliant response must be clearly documented in Council's Notice of Procurement and other procurement documentation.

### ***Due Diligence***

Depending on the nature and scale of the procurement project in question, Council and its professional advisors and/or consultants may conduct due diligence investigations of any or all of the supplier/s that submit a tender or proposal.

### ***Excluding a supplier***

Council may exclude a supplier from participating in a contract opportunity if there is a good reason for exclusion.

Reasons for exclusion include:

- bankruptcy, receivership or liquidation
- making a false declaration
- a serious performance issue in a previous contract
- attempt/s made by the supplier to influence Council through lobbying or seeking support of Council staff or representatives



- a conviction for a serious crime or offence, or professional misconduct
- failing to pay taxes, duties or other levies
- human rights violations by the supplier or in the supplier's supply chain
- any matter that materially diminishes on Council's trust and confidence in the supplier.

Council should not exclude a supplier before it has evidence supporting the reason for excluding the supplier.

## **6. Awarding the contract**

### **A. Approving the preferred participant and awarding the contract**

#### ***Awarding the contract***

Council should, unless there is a legitimate reason to cancel the procurement, award the contract to the supplier/s that has both:

- demonstrated that it fully understands and has the capability to deliver the requirements and meet the contract conditions
- offered the best public value, including Broader Outcomes, over the whole life of the goods, services or works.

If a supplier offers a price that is substantially lower than other responses, before awarding the contract Council should first seek to verify with the supplier that the supplier is capable of:

- satisfying all of the conditions for participation, if any, and
- fully delivering all of the contract requirements (e.g. quality, quantity, time and location), any other stated objectives and meeting all of the contract conditions for the price quoted.

#### ***Preferred supplier***

The evaluation panel must provide a clear recommendation on who the preferred supplier is to the authority (delegated staff or Council) approving the award of the contract.

The recommendation should provide enough information to allow the approving authority to understand the evaluation process and the rationale for the recommendation. For example, the recommendation should include information such as:

- List of suppliers which submitted a response and accompanying pricing information
- Budget / financial information
- Reason for preferred supplier
- Key dates or other important contract information.

The amount of detail given to the approving authority should be in line with the value and risk associated with the procurement. The approving authority should be able to make an informed judgement on the adequacy of the response or proposal process and the validity of the response or proposal selection.

The recommendation of the preferred supplier should reflect the outcome of the evaluation process.

If the approving authority rejects the recommendation, it should:

- clearly document the reason for not accepting the recommendation
- ensure that the reason is legitimate (this would usually be the result of an unforeseen event that was not identifiable earlier in the process).



### ***Post-evaluation negotiation***

If there is more than one supplier who is capable of delivering the contract, Council may want to negotiate with the top-ranked supplier and reserve its position with the next-ranked supplier.

Post-evaluation negotiation is an effective risk management tool. From Council's perspective, the primary objective of the negotiations should be to:

- test the understandings and underlying assumptions that have influenced a participant in preparing the costs
- achieve a reduction in costs, where appropriate.

If the negotiations with the top-ranked supplier fall through, Council may then offer to negotiate with the next-ranked supplier. In this case, Council may tell other highly-ranked suppliers that it is negotiating with the preferred supplier and, should negotiations fail, they may still be considered for the contract opportunity.

### ***Notifying preferred suppliers***

Once the preferred supplier/s has been decided, the Council employee responsible for the procurement shall, as soon as reasonably practicable, advise the preferred supplier of the result of the evaluation.

### ***Contract award notice***

For procurements of works, goods or services above the financial threshold of \$100,000 (excluding GST), Council may – as good practice – publish a contract award notice on GETS when it has awarded a contract to a supplier/s.

## **7. Post-contract award**

### **A. Unsuccessful suppliers**

#### ***Debriefing suppliers***

After evaluating the responses and making the decision to award the contract to a particular supplier/s, the Council employee responsible for the procurement shall – as soon as reasonably practicable – inform all of the unsuccessful suppliers in writing of this decision and offer such suppliers the opportunity to be debriefed following a procurement.

The offer of a debriefing should set out the scope and likely format – and should make it clear that the process will not be used to change the selection decision or reopen the process.

Debriefs involve telling unsuccessful suppliers about the strengths and weaknesses of their proposal and gives them an opportunity to improve future proposals.

Notes should be taken of any debriefs for record keeping purposes.

#### ***Supplier complaints***

A supplier may complain to Council if it believes Council has not followed its Procurement Rules. Council will consider and respond promptly and impartially to a complaint in good faith.

Where a supplier makes a complaint to Council this must not prejudice the supplier's ongoing or future participation in contract opportunities or affect any right the supplier may have to a judicial review or other remedy.

Council should make sure to keep good records of its procurement processes and decisions which are to be made available to any authority authorised to hear or review a supplier's complaint.

## **B. General requirements**

### ***Prompt payment***

Council must pay suppliers' invoices promptly. This means invoices must be paid at the time/s set out in the agreed contract at a minimum.

Council shall encourage their suppliers to pay their subcontractors promptly by ensuring suppliers offer subcontractors no less favourable terms as the ones they receive from agencies.

### ***Maintaining records***

Without limiting its obligations under the Public Records Act 2005, Council must keep records of each procurement for at least three years from the date the contract was signed by all the parties.

Council's records must document the procurement process, all decisions, the contract awarded and include all recommendations and reports. The procurement process includes planning, sourcing, evaluations, meetings, issues, resolutions and recommendations.

Council may store records of the procurement process electronically provided that its system complies with requirements of the Public Records Act 2005.

Disposal of records is subject to the authorisation of the Chief Archivist, in accordance with the Public Records Act 2005.

## **8. Contract management**

### ***Contract management***

Following completion of the procurement process, Council is responsible for the ongoing management of the contract and the relationship with the supplier of the goods or services.

Council should appoint a contract manager who is to assume overall responsibility for ensuring that the contract is appropriately managed.

Contract management by Council should include:

- confirming deliverables against the terms and conditions set out in the contract (i.e did the goods/services provided meet expectations)
- certifying that payments are made in compliance with the contract and the value of the contract is not exceeded

- ensuring that relevant contract and related documentation is properly recorded, held, updated and accessible
- managing the ongoing relationship with the supplier.



Council needs to monitor and manage the supplier's performance to assess whether public value is being achieved, including value for money. The extent of the managing and monitoring should be determined by the Council based on risk management and cost/benefit assessments. Monitoring and managing supplier performance should be a priority when the value and the risks associated with the procurement are high.

***Contract variations and extensions***

Once the contract is signed by Council and the appointed supplier, all contract variations or extensions must be completed before the contract itself expires.

Any specific legal or contractual issues should be referred to Council's legal team for consideration.

## **9. Alternative procurement methods**

### **A. Background**

Council may choose an alternative competitive procurement method for particular types of procurement. A more comprehensive explanation of the different alternative procurement methods is provided in the Procurement Guidelines.

For the purposes of the Procurement Rules, this section outlines what additional considerations must be made when Council decides to establish either a:

- Supplier list
- Panel of Suppliers.

### **B. Supplier lists**

***Overview***

A variation on the open or closed tender proposal process is pre-qualification using pre-qualified supplier lists. Pre-qualification is a method where Council assesses suppliers or particular goods and/or services against predetermined criteria to respond.

Council generally includes suppliers that are successful in meeting the pre-qualification criteria on a database which it maintains.

This section outlines the additional requirements to be complied with if Council chooses to establish a supplier list. For more information on choosing to establish a registered or qualified supplier list, refer to Council's Procurement Guidelines.

***Establishing a pre-qualified suppliers list***

To establish a pre-qualified suppliers list, Council should:

- publish an Invitation to Qualify (a type of Notice of Procurement) on GETS and make it continuously available
- allow suppliers to respond to the invitation at any time or by specific deadlines for responses

- include the following information in the invitation:
  - Council's name and address and contact details for the person managing the process
  - a clear description of the specific goods, services or works potential suppliers must be capable of delivering
  - a list of any conditions that each supplier must meet to participate and how Council will check each supplier meets the conditions
  - how long the list will be active for and how it will be refreshed or terminated.
- assess applicants within a reasonable timeframe and add qualifying suppliers to the list as soon as possible
- notify unsuccessful applicants as soon as reasonably practicable and, if requested, provide the reason/s why.

***Operating a pre-qualified suppliers list***

To operate a pre-qualified suppliers list Council should:

- keep an updated list and make this publicly available at all times (e.g. on Council's website)
- notify pre-qualified suppliers if the list is terminated or they are removed from the list.

If Council removes a supplier from a pre-qualified suppliers list it must provide written notice to the supplier with reasons for the removal.

***Managing contract opportunities***

If a contract opportunity arises for the specific goods, services or works that a pre-qualified suppliers list was established for, Council will:

- openly advertise the contract opportunity on GETS. Pre-qualified suppliers should make sure that they are listed on GETS under the correct tender watch code/s to receive notifications
- allow any unqualified supplier to submit an Application to Qualify either prior to or along with its response to the Notice of Procurement.

If a supplier submits an Application to Qualify before or with its response, Council must:

- promptly assess the application
- allow a supplier who is successful in becoming pre-qualified to take part in the contract opportunity, if there is enough time to complete the qualification process, and promptly notify the supplier of the decision.

**C. Panel of suppliers**

***Overview***

Council may enter into contractual arrangements with a Panel of Suppliers that Council has pre-approved to supply particular goods, services or works and who have agreed to Council's terms and conditions for supply.

The Procurement Guidelines provide information on what Council should consider when determining whether to establish a Panel of Suppliers. This section outlines the additional requirements to be complied with if Council chooses to establish a panel for a particular procurement.

***Establishing a panel***

Council shall openly advertise the opportunity to be selected for the Panel of Suppliers in accordance with the Procurement Rules.

The Notice of Procurement for any proposed panel should include the following additional information:

- the terms and conditions of the panel contract
- the method/s Council will use to award contracts to suppliers on the panel
- how Council will contract with a supplier who agrees to deliver specific goods or service or works
- the period of time the panel will be established for
- whether or not the panel is 'open' or 'closed'
- any circumstances that may lead to a supplier being removed from the panel.

#### ***Contract award notice***

On establishing the panel, Council should publish the names of all of the suppliers that have been appointed to the Panel in any contract award notice published.

Where a panel supplier is given a specific contract through a secondary procurement process, Council does not need to publish a contract award notice. However it is good practice to be transparent and publish summary details of contracts awarded as a result of secondary procurement from a panel.

#### ***Secondary procurement***

The Notice of Procurement should outline the methods that Council will use to select suppliers when a contract opportunity arises, i.e. secondary procurement process.

This should usually be a competitive process unless in the particular circumstances Council considers a competitive process to not be appropriate i.e. low value, low risk procurement.

Accepted selection methods for secondary procurement processes include:

- **competitive quotes which could be based on the supplier's expertise, proposed solution and/or best public value:** Ask for quotes from some or all panel suppliers and award the opportunity to the supplier who has the right level of expertise, can offer the best public value and deliver on time.
- **direct source, based on the best fit for purpose:** Fair evaluation of all panel suppliers and selection of the supplier who has the right capacity and capability to fulfil the opportunity and offers the best public value at the time of the purchase.
- **rotation:** Award opportunities to each supplier in turn – regardless of their expertise, public value or delivery time.
- **equal division of the work:** Fix an upper limit for the amount of work that can be awarded to each supplier and award opportunities on a rotational basis. When a supplier reaches the upper limit, Council chooses the next supplier from the panel.
- **preferred supplier basis:** Identify a preferred supplier from the panel. This supplier receives

most of the opportunities unless it has a Conflict of Interest or is unable to supply. If this happens, Council will award the opportunity to the next-ranked supplier from the panel.

- **location:** Award opportunities to the supplier who is best able to deliver based on their location and the location of the work.

Council may use more than one method for secondary procurement as long as this is explained in the Notice of Procurement (for example, the notice may say Council will either direct source from one panel member or request quotes from some or all panel members).

## APPENDIX 1:

### Definitions

**“Application to Qualify”** means an application by a supplier to be included in an agency’s Prequalified Suppliers List. A supplier must prove it has the capability and capacity to deliver specific types of goods, services or works to be included in the list.

**“Broader Outcomes”** means the secondary benefits which are generated due to the way a goods or service is produced or delivered. They include economic, environmental, social, and cultural outcomes.

**“Business Day”** means any week day in New Zealand – excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year’s Day.

**“Conflict of Interest”** means where someone’s personal interests or obligations conflict, or have the potential to conflict, with the responsibilities of their job or position or with their commercial interests. It means that their independence, objectivity or impartiality can be called into question.

**“Council”** means Gisborne District Council - Te Kaunihera o Te Tairāwhiti.

**“Council’s Procurement Framework”** means the Procurement Policy, the Procurement Guidelines and the Procurement Rules.

**“Evaluation Criteria”** means the criteria that are used to evaluate responses. These include measures to assess the extent to which competing responses meet requirements and expectations (e.g. criteria to shortlist suppliers following a registration of interest or criteria to rank responses in awarding the contract).

**“GETS”** is an acronym for Government Electronic Tenders Service. GETS is a website managed by the New Zealand Government. It is a free service that advertises New Zealand Government contract opportunities and is open to both domestic and international suppliers. All tender information and documents are made freely available through GETS.

**“Government Procurement Rules”** means the Ministry of Business, Innovation & Employment’s Government Procurement Rules: Rules for sustainable and inclusive procurement (4th Edition) as may be updated from time to time.

**“GST”** means Goods and Services Tax. It is a tax on most goods and services produced in New Zealand, most imported goods and certain imported services. GST is added to the price of taxable goods and services.

**“Invitation to Participate (ITP)”** means an invitation to suppliers, to apply to be included in a procurement process.

**“Invitation to Qualify (ITQ)”** means an invitation to suppliers, to apply to be included in a Pre-Qualified Supplier List.



**“Notice of Procurement”** means the document published on GETS that advertises a new contract opportunity (e.g. a registration of interest or a request for tender). It sets out all the information that suppliers need in order to prepare and submit a meaningful response.

**“Openly advertise”** means publishing a contract opportunity on GETS and inviting all interested domestic and international suppliers to participate in the procurement.

**“Panel Contract”** means a type of framework agreement that governs the relationship between the agency and each panel supplier. It sets out the terms and conditions (including pricing) that the parties agree to contract on in the event that the panel supplier is allocated a contract to provide specific goods, services or works

**“Panel of Suppliers”** or **“Panel”** means a list of suppliers an agency has pre-approved to supply particular goods or services and who have agreed to the agency’s terms and conditions for supply.

**“Panel Supplier”** means supplier included in a panel of suppliers.

**“Pre-conditions”** mean a condition/s that a supplier must meet to be considered for a particular contract opportunity.

**“Pre-qualified Suppliers List”** means a list of suppliers Council has pre-approved as having the capability and capacity to deliver specific goods or services.

**“Procurement Guidelines”** means Council’s procurement guidelines document (A1658895).

**“Procurement Objectives”** means Council’s procurement objectives as set out in the Procurement Guidelines.

**“Procurement Policy”** means Council’s procurement policy document which (A1695105).

**“Procurement Register”** means the procurement register referred to in Council’s Procurement Guidelines, which is held by the procurement team.

**“Procurement Rules”** means the Council’s Procurement Rules set out in this document.

**“Registration of Interest (ROI)”** or **“Expression of Interest”** means a formal request from Council asking potential suppliers to:

- register their interest in an opportunity to supply specific goods, services or works
- provide information that supports their capability and capacity to deliver the goods, services or works.

This is usually the first formal stage of a multi-step tender process.

**“Request for Information (RFI)”** means a formal request from Council to the market, for information that helps identify the number and type of suppliers and the range of solutions, technologies and products or services they can provide. It is **not** a type of Notice of Procurement. It must **not** be used to select or shortlist suppliers.

**“Request for Proposal (RFP)”** means a formal request from Council asking suppliers to propose how their goods or services or works can achieve a specific outcome, and their prices. Council may be open to innovative ways of achieving the outcome.

**“Request for Quote (RFQ)”** means a formal request from Council asking potential suppliers to quote prices for ‘stock standard’ or ‘off-the-shelf’ goods or services or works, where price is the most important factor.

**“Request for Tender (RFT)”** means a formal request from Council asking for offers from potential suppliers to supply clearly defined goods or services or works. Often there are highly-technical requirements and a prescriptive solution.

**“Response”** means a supplier’s reply to a Notice of Procurement. Examples include:

- registering of interest in an opportunity
- submitting a proposal
- submitting a tender
- applying to qualify as a Pre-qualified Supplier.

**“secondary procurement”** means the process whereby Council purchases goods, services or works from a panel of suppliers.

**“sufficient time”** means the time Council must give suppliers to respond to a Notice of Procurement, to support:

- quality responses
- the integrity of the process
- the agency’s reputation as a credible buyer.

**“supplier”** means a person, business, company or organisation that supplies or can supply goods or services or works to the Council.

**APPENDIX 2**

**Procurement plan checklist**

<b>Item no.</b>	<b>Topic</b>	<b>Comments</b>
1.	Key project information	
2.	Project scope	
3.	Procurement method and why chosen	
4.	Exclusions or exemptions under the Council's Procurement Framework (if any) and rationale	
5.	Evaluation model (including the evaluation criteria) and process	
6.	Type of contract and contractual conditions	
7.	Responsibilities of Council's staff and any other stakeholders	
8.	Risk assessment	
9.	Required independent oversight or assurances over the process (if applicable)	
10.	Timeline / Key milestones	
11.	Resources needed (e.g project manager, evaluation team members, tender or proposal manager and approved authority)	
12.	Budget, including budget for conducting the procurement (e.g for external quality assurance, independent assurance, legal advice and project management)	
13.	Probity considerations	

## APPENDIX 3

### Procurement objectives – supplier considerations

Council’s Procurement Policy sets out four procurement objectives which align with Council’s vision, values, strategy and community outcomes and form part of Council’s decision-making framework.

Set out below are some high level questions which Council may use for guidance when considering how to reflect the procurement objectives in its tender documentation for procurement projects. These questions are intended to be useful examples, however this is not exhaustive and should not limit what Council may consider or ask of suppliers in relation to Council’s procurement objectives.

No.	Procurement Objective	Examples of questions for consideration in Council’s tender documentation
1.	<b>Economic development</b>	<p>What is the size / growth of the supplier’s business?</p> <p>Is the supplier a local or regional business?</p> <p>Is the supplier a social enterprise?</p> <p>How does the supplier propose to resource the project, including subcontracting to local businesses?</p> <p>What is the supplier’s recruitment process?</p> <p>What, if any, further recruitment would the supplier do over the course of the contract?</p> <p>What is the supplier’s level of retention of employees?</p> <p>Does the supplier intend to use any new or innovative solutions in delivering its goods, works and/or services?</p> <p>To what extent does the supplier intend to work with local agencies/initiatives/communities?</p>
2.	<b>Social responsibility</b>	<p>What, if any, skills development and training programmes, apprenticeships, transition to workforce policies and programmes does the supplier have in place?</p> <p>What more would the supplier do over the course of the contract to improve or build its employees’ skills?</p> <p>What, if any, policies or practices does the supplier have in place to ensure it complies with the Government’s <a href="#">Supplier Code of Conduct</a>?</p> <p>What, if any, health and safety policies, practices and/or training does the supplier have in place?</p> <p>What, if any, policies or practices does the supplier have in place to promote the safe working conditions of workers?</p>
3.	<b>Environmental sustainability</b>	<p>What, if any, sustainability policies or practices does the supplier have in place?</p> <p>What, if any, waste minimisation, recycling and disposal policies or practices does the supplier have in place?</p> <p>What, if any, policies or practices does the supplier have in place to reduce pollution, including those that promote the national target of transitioning to a net zero emissions economy by 2050?</p> <p>What greenhouse gas emissions are associated with the supplier’s goods or services?</p> <p>What are the whole of life environmental impacts of the supplier’s goods?</p> <p>What is the supplier’s track record in sustainable performance and innovation?</p>

No.	Procurement Objective	Examples of questions for consideration in Council's tender documentation
		<p>What, if any, consideration has the supplier given to the impacts that climate change may have on the longevity of their product?</p> <p>To what extent is the supplier manufacturing or using materials which are locally produced?</p>
4.	<b>Cultural sustainability</b>	<p>What, if any, policies or practices does the supplier have in place to assist with Māori development and/or cultural diversity?</p> <p>How, if at all, does the supplier integrate Te Reo Māori into its business practices?</p> <p>Is the supplier a Māori or Pasifika led or governed business?</p> <p>How will the supplier's business/procurement use or impact iwi assets in the region?</p>