

STAFF REPORT

TO: Chair and Members, Engineering Services Committee

FROM: Engineering Manager

REFERENCE: E361

DATE: 22 September 2010

SUBJECT: **Procurement Strategy 2010 – RESC10-09-12**
Report prepared for meeting of 30 September 2010

1 PURPOSE

- 1.1 This report presents a proposed Procurement Strategy for Engineering Services contracts to meet the New Zealand Transport Agency's (NZTA) requirements for expenditure from the National Land Transport Fund (NLTF) by 1 October 2010. The Strategy is proposed to apply to all Engineering Services activities.

2 BACKGROUND

2.1 What is the Requirement for Change in the Procurement Process?

The NZTA require all Approved Organisations to have a Procurement Strategy endorsed by them by 1 October 2010, to be eligible to apply for expenditure from the National Land Transport Fund. Tasman District Council is an Approved Organisation under the Land Transport Management Act.

- 2.2 The Procurement Strategy must comply with the NZTA Procurement Manual. This new Procurement Manual replaces the Transfund CPP (Competitive Pricing Procedures) Manual. Key NZTA Principles for Procurement detailed in the Procurement Manual include:

- Best value for money over whole of life.
- Open and effective competition.
- Full and fair opportunity of domestic suppliers.
- Improving business capabilities.

- 2.3 The NZTA principles align with Tasman District Council's objectives to:

- Implement policies and financial management strategies that advance the Tasman District.
- Sustainably manage infrastructure assets relating to Tasman District.
- Promote sustainable economic development in the Tasman District.

- 2.4 The proposed Draft Procurement Strategy attached focuses on all Engineering Services activities, not just transportation, which is consistent with existing practices.

- 2.5 The Procurement Strategy adopted by 1 October could be applied to other areas of Council activity, if this is considered appropriate.
-

2.6 What is the strategy expected to cover?

Each council's procurement strategy is expected to include:

- An analysis of the council's procurement activity over the next few years.
- The council's value for money goals and how these might be achieved.
- How the council will procure projects to meet those goals.
- The delivery and selection methods the council will use.
- The risks and opportunities in the procurement route identified by council.
- Whether there is free and fair local market to service the work being procured.

2.7 What is the current process for selection and delivery of Council's Engineering Services Contracts?

Currently Council processes adhere to various statutory and NZTA procedural requirements. However Council does not have a formal Procurement Strategy in place.

2.8 Almost all Engineering Services tenders for physical works and professional services use the following process:

- Select appropriate procurement method from industry standards/CCP manual – LPC (Lowest Price Conforming method), or Price Quality.
- Prepare RFT (Request For Tender).
- Proceed with Tender Process.
- Close of Tender.
- Tender Evaluation – in accordance with CPP Manual and Tasman District Council Engineering Services Contract Administration Manual.
- TET (Tender Evaluation Team) – Recommendation to Tasman District Council Asset Manager/Engineering Manager.
- Tasman District Council Asset Manager/Engineering Manager prepares tender report with recommendation to Chief Executive and Councillors Norriss, Bryant, and Higgins with Tenders portfolio.
- Tenders are awarded/declined under current Council delegation.

2.9 Very large value or multi-year contracts are reported to Council for approval/decline process.

3 DISCUSSION - Proposed Draft Procurement Strategy

3.1 The attached Draft Strategy objectives are consistent with Council's Ten Year Plan.

3.2 The key changes introduced by the Strategy are:

- the establishment and use of Supplier Panels for low to medium value works/professional services,
- establishment of Performance Measurement and Monitoring for procurement, and
- a change in the role of the Tenders "committee" to also include for the review of procurement performance.

- 3.3 These changes should promote greater efficiency for all parties throughout the tendering process, and will provide Council with an ongoing monitoring process to optimise procurement performance in the future.
- 3.4 Tables showing a comparison of current and proposed procurement processes are attached on the following pages.
- 3.5 Also attached are tables showing number and value of activity projects over a 20 year period (from our 2009 Activity Management Plans) that could be affected by the use of Supplier Panels for procurement.

3.6 What is the proposed Project Tendering Process for the selection and award of Contracts?

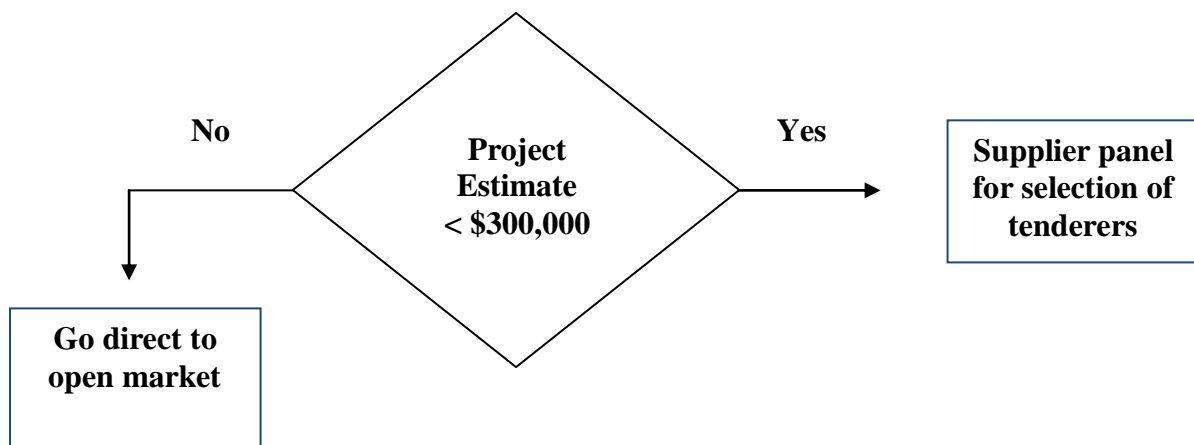
3.6.1 Supplier Panel Selection Process

Supplier Panels will be established every 12 months for physical works and professional services activity, for individual work packages valued up to \$300,000 for physical works and \$150,000 for professional services.

- Annual Request for Information (RFI) – by open invitation.
- Evaluation of Tenderers for Supplier Panels across utilities and transportation contractors and consultants (based on non-price attributes only).
- Evaluation by TET (tender Evaluation Team).
- TET report with recommendations to Engineering Manager and CEO.
- Approve Prequalified Tenderers and establish Supplier Panels for up to a 12 month period.

3.6.2 Selection of Procurement Method & Tender Process (Physical Works example)

- Determine Project estimate value and approved budget. Term Network Maintenance Contracts and significant major capital works will be assessed on their own merits to determine appropriate procurement strategy/method.



- Select appropriate procurement method from NZTA Procurement Manual – LPC (Lowest Price Conforming) or Price Quality.
- Select project specific attributes to use in RFT, eg:
 - Programme
 - Methodology, and/or
 - Resources/Technical Skills
- Prepare RFT.
- Where Project estimate is less than \$100,000 may invite a minimum of one tenderer selected from Supplier Panel.
- Where Project estimate is less than \$300,000 invite all appropriate prequalified tenderers from Supplier Panel.
- Where Project estimate is greater than \$300,000 go Direct to Market (open tender).
 - [Note can go Direct to Market for any specific RFT if necessary]
- Proceed with Tender process.
- Close tenders.
- Evaluation by TET.
- TET report with recommendation to Asset Manager/Engineering Manager/CEO.
- Tenders above \$300,000 reported to Tenders “Committee” for approval.

(NOTE: Professional Service procurement method will be similar to the example above for Physical Works, but using the \$50,000 and \$150,000 thresholds.)

3.6.3 Delegated authorities for proposed Strategy:

- Engineering Manager and Chief Executive – approve or decline annual prequalification of tenderers to Supplier Panels.
- Asset Manager (Utilities or Transportation) – award or decline tender up to the maximum value of Authorised Expenditure Level but not exceeding \$300,000, and subject to an approved activity budget in the Annual Plan.
- Engineering Manager – award or decline tender up to the maximum value of \$300,000, and subject to an approved activity budget in the Annual Plan.
- Tenders “Committee” (being the CEO and Councillors with Tenders portfolio) - award or decline all tenders exceeding the value of \$300,000, and subject to an approved activity budget in the Annual Plan.
- Any tender above an approved Annual Plan budget will need to be referred to the Engineering Services Committee for specific approval

3.6.4 Procurement Process Review

The Tenders committee will review the Procurement Strategy Performance Measures annually with the Engineering Manager for:

- Efficiencies
- Effectiveness
- Market Impact

The Tenders “Committee” and the Engineering Manager will recommend to the Engineering Services Committee any changes in Procurement Strategy or the process as part of the Procurement Strategy annual review.

3.6.5 Actions to be completed following endorsement by NZTA of the Procurement Strategy

- Review and update Council portfolios
- Update Council Delegation register
- Set processes to gather data for Performance Measures
- Update Contract Procurement Administration Manual
- Setup Annual reviews

4 INDEPENDENT PEER REVIEW and CONSULTATION

- 4.1 The Draft Procurement Strategy was forwarded for comment to the NZTA, Nelson City Council, Marlborough District Council, Buller District Council, the NZ Contractors Federation and all contractors and consultants that have recently tendered for Council projects. Submissions from stakeholders have been reviewed with the Tenders committee as part of the finalisation of the Strategy.
- 4.2 The draft was also independently peer reviewed by Brian Smith Advisory Services Limited. A copy of the peer review is appended to this report. Brian has also reviewed the revised final version and has advised in writing that he agrees with the changes made to the Strategy.
- 4.3 The table attached shows a summary of the responses received, the issues raised, and how each issue has been addressed in the development of the Strategy.

5 NZTA ENDORSEMENT

- 5.1 Council has been advised by Ian Hunter, Principal Advisor Procurement, NZTA that the proposed Strategy in its attached form meets NZTA requirements and will receive endorsement.

6 SIGNIFICANCE

- 6.1 The proposed Procurement Strategy has been reviewed against the thresholds, criteria and procedures in Council's Policy on Significance. The proposed strategy is not significant pursuant to Section 90(1)(b) of the Local Government Act 2002.

7 RECOMMENDATION

- 7.1 THAT the report RESC10-09-12 Procurement Strategy be received by the Engineering Services Committee.**
- 7.2 THAT the Procurement Strategy September 2010 for Engineering Services contracts as outlined in the report RESC10-09-12 be adopted by Council and forwarded to NZTA for endorsement.**

Peter Thomson
Engineering Manager

CONSULTATION, PEER REVIEW FEEDBACK

Feedback From	Issues/Suggestion	Action Taken
NZTA	Rationale behind <\$300k threshold for Supplier Panels	Figures compiled to show the number & value of projects with this threshold. Discussion held.
	Officer responsible for reviewing strategy	Engineering Manager has been named in S6.3
	Collaboration with NZTA	Paragraph in S2.5 re joint TDC/NZTA projects
Brian Smith (Peer Review)	S2.3 - Word change - placement allocation	Updated
	S2.7 - trialling alternative procurement methods	Cross reference to 5.2 inserted
	S6.2, para 1 - unclear	"the value of individual projects" added
	Ranking criteria for supplier panels - procedure?	Kept in
	Table 6.1 & 6.2 - Prequalification outlined	Wording changed
	Table 6.1 & 6.2 - \$300k threshold PS & PW differentiation	Threshold for PS reduced to \$150k
	Table 6.2 - Projects >\$300k	Wording changed - <u>All</u> Projects >\$300k
	Table 6.2 - Network contracts - term of contract changes	Discussed - no change required
	Who is responsible for planning process of the procurement strategy	S6.3 updated
	Who accountable for performance of the procurement strategy	S6.3 updated
	Public Private Partnership policy not defined	New section 2.6 added - summarising LTCCP
Kidson Construction	Nil	Nil
NZ Contractors Federation	Supplier panels applauded	
	Raise value of supplier panel projects to \$500k	Discussed - existing project \$300 - \$500k would probably have gone to open tender anyway - No change
	Existing prequalified panel members only need reapply every 3-5yrs	Remain as annual submissions but procedure reviewed annually
	New suppliers able to apply annually	As per document
	Combining contractor/consultant to supply design/build	Rejected, not at this project level, design/build not type of project in panel process
	Local contractors/consultants consulted on panel selection	Rejected

	criteria/processes	
	To cover other departments	Will be considered during Strategy review process
Tasman Civil	Limiting number of Panel members biased	Change to "invite all suppliers from the appropriate panel/s"
	To cover non Engineering services	Will be considered during Strategy review process
Tonkin & Taylor	Nil	Nil
Cameron Gibson & Wells	Project Deliver Model - change suggested	Strategy supports proposed model
	Review clause should be included	There is a paragraph in S6.5 - 3yr review cycle

Comparison of Current and Proposed Procurement Processes

Current Procedures	Proposed Procedures
Legislation , Policies and Procedures	
Local Government Act; Land Transport Management Act	Local Government Act; Land Transport Management Act, Sec 20 and 25
Council's Portfolio policy for Tenders , Councillors and CEO	Council's Portfolio policy for Tenders, Councillors and CEO. Engineering Manager would report to the Engineering Services Committee annually.
Council's Delegation Register	Council's Delegation Register – will require minor updating to reflect adopted Procurement Strategy
Transfund Funding Manual	NZTA Procurement Manual
Transfund Competitive Pricing Procedures, CPP Manual	NZTA Procurement Manual – Rules under Section 10
Council Contract Administration Manual	Council Procurement Administration Manual – an update of the Contract Administration Manual to comply with Council Procurement Strategy and NZTA Rules in Procurement Manual.

Current Procedures	Proposed Procedures
Tendering Process and Evaluation	
Selected Professional Services tenders generally < \$50,000 only. All other tenders direct to market	Use of Prequalified Tenderers in Supplier Panels for: <\$50,000; and \$50,000 to \$150,000. For >\$150,000 direct to open market. Retain ability to go direct to market for any RFT.
Selected Physical Works tenders generally < \$50,000 only. All other tenders direct to market	Use of Prequalified Tenderers in Supplier Panels for: <\$100,000; and \$100,000 to \$300,000. For >\$300,000 direct to open market. Retain ability to go direct to market for any RFT.
Procurement methods - Lowest Price Conforming ; Price Quality (such as weighted attributes); Some Quality only then negotiation on price	Procurement methods - Lowest Price Conforming ; Price Quality (such as weighted attributes); Some Quality only then negotiation on price
Some use of Prequalification to open market then RFT to selected tenderers.	Request for Information and establish Prequalified Supplier Panels
Evaluation strictly or generally in accordance with CPP manual and Council policies. Each Tender Evaluation Team, TET, requires member or review by qualified evaluator.	Evaluation in accordance with Council Procurement Strategy and Contract Procurement Administration Manual. Using well established principles with current use of NZTA Procurement Manual to ensure ethical and professional approach taken by evaluators. Each Tender Evaluation Team, TET, requires member or review by qualified evaluator.
Most tenders recommended by Engineering Manager / Asset Manager to Tenders 'Committee'.	Asset Manager, Engineering Manager award/decline tender recommendation as per updated Delegations register up to contract value of \$300,000. Tenders over \$300,000 recommended by Engineering Manager / Asset Manager to Tenders 'Committee'.
Large value contracts generally awarded by Council	Major projects will have own pre-approved procurement strategy

Current Procedures	Proposed Procedures
Procurement Process Review and Performance Measures	
<p>Performance of procurement process is done through the Tenders 'Committee' on a contract by contract basis.</p> <p>Council advised of contracts awarded, value and progress on 6 weekly basis.</p>	<p>Performance of Procurement Strategy will be assessed through the Tenders 'Committee' on an annual basis, and reported to the Engineering Services Committee. Engineering Manager will have delegation within authorised limits, to accept or decline TET recommendation for individual tenders.</p> <p>Council advised of contracts awarded, value and progress on 6 weekly basis.</p>
<p>No review of performance of the procurement process in how the process itself may be influencing the Council objectives of supporting local market and economy, and best value for whole of life.</p>	<p>Performance measures set in Procurement Strategy.</p>
<p>No targets for efficiency gains in procurement process</p>	<p>Targets for improvement in efficiency and effectiveness of the procurement process set in the procurement strategy</p>
<p>No clear distinction between governance role of the procurement process for Tenders 'Committee' and the approval or decline of tenders.</p>	<p>Council reviews trends and processes to achieve Council procurement objectives and targets as part of the annual review of the procurement strategy.</p>
<p>Prequalification only used occasionally on specific project tenders.</p>	<p>Annual prequalification of Supplier Panels and opportunity for inclusion of new contractors/consultants.</p>
<p>Ongoing changes in policies and procedures as required and approved</p>	<p>Annual Review of Strategy – opportunity to realign/revise policy to better meet Council performance measures.</p>