



This proposal is for a: Policy Procedure Guidelines Code of Practice

Capital Projects-Building Procurement Policy

Category or Type	Financial
Originally approved by, and date	12 May 2015
Date Policy will take effect	12 May 2015
Last approved revision	
Sponsor	Chief Operating Officer
Responsible Officer	Director, Property Services
Review date	12 May 2016

Purpose

The purpose of this policy is to ensure that the tendering and procurement process used for Capital Projects-Building:

- meets all legal requirements and is aligned with governmental agency policy;
- is open, fair, competitive and transparent;
- provides the University with the best value for its expenditure.

This policy should be read in conjunction with other relevant policies and related material as listed at the end of this document, particularly the University's *Procurement Policy* and *Procurement Guidelines*.

Organisational Scope

This policy applies to all procurements for Capital Projects-Building where the purchase value is \$100,000 or greater.

Definitions

Approved Contractor

A contractor who's Health and Safety Compliance has been approved under the University's Approved Contractor Policy.

Consultant

Any person/persons/company employed by separate contract with the University to act on behalf of the University in overseeing, managing or providing specialist consultant services in respect of a specific project, whether at feasibility, design, tender, contract or post-contract stage.

Capital Project-Building	A project involving new construction; expansion, renovation or significant maintenance of an existing structure; or a replacement project for existing facilities.
Contractor	Any person/persons/company employed by separate contract with the University to provide construction services in respect of a specific project.
Nominated Procurement Coordinator	The person designated by the University to oversee the procurement process and to act as the principal point of contact with the Tenderers. This will normally be a Project Manager from the Capital Projects Unit, Property Services.
Procurement	The process by which a Consultant or Contractor is selected for a particular project.
Purchase Value	Value of a procurement for a Capital Project-Building, excluding land, but typically includes consultant's fees; construction costs; contract services; and furniture, fittings and equipment needed to complete the project.
Tendering	The seeking of competitive tenders from a number of suitable Consultants or Contractors as part of the procurement process.
Tenderers	The Consultants or Contractors providing competitive tenders as part of the procurement process.
<i>Tendering Methods</i>	
Single-stage Open Tender	An open call for tenders without a pre-qualification process. Tenders are publically advertised using the appropriate Request for Proposal (RFP) or Request for Tender (RFT) document, including with the Government Electronic Tendering Services (GETS).
Multi-stage Open Tender	A two-stage process. The <i>first stage</i> is to invite a Registration of Interest (ROI) from interested parties, followed by assessment of the capacity of potential Tenderers to fulfil the requirements of the project. This should be publically advertised, including with GETS. The <i>second stage</i> is to invite and assess Tenders from a reduced group, as for Single-Stage Selective Tendering.
Selective Tender	Tendering from a group of known, Approved Contractors without public advertising, but still utilizing a Request for Proposal (RFP) or Request for Tender (RFT) document.
<i>Tender Evaluation Methods</i>	
Lowest Price Conforming	Selection based on the lowest tendered price, provided the Tenderer can satisfactorily demonstrate that the requirements of the project can be met.
Weighted Attributes	Selection based on comparison of weighted criteria. Criteria and weightings (using the Paired Comparison Matrix system) should be agreed in advance and included in the RFT document for the project.

Content

1. Prior to the Procurement Process

- (a) Tenders shall not be advertised until the full project funding has been approved via the University's Council. Approval for the commencement of the procurement process shall be given by the Director of Property Services.

- (b) All Capital Projects-Buildings shall follow an open tender process unless exempted by the Vice-Chancellor, the Chief Operating Officer, the Director of Property Services or a designated University representative acting in accordance with their delegated authority under University policy. This principle shall apply to all contracts involving the University, including contracts led by any agent, consultant or other person acting on its behalf.
- (c) The University shall appoint a Nominated Procurement Coordinator who will act as the University's point of contact during the procurement process, either directly with the Tenderers or with the Consultants as applicable; will record the steps in the process; and will have responsibility for ensuring compliance with this policy.
- (d) The Nominated Procurement Coordinator shall review the proposed procurement process against the relevant University policies to confirm alignment with these standards, risk management and University procedures. This procurement planning process should consider whether the use of specialist agents may be advisable for the purposes of legal or probity issues review.
- (e) Where a real or perceived conflict of interest exists, the relevant party should not be involved in the evaluation or approval of tenders. The *Conflicts of Interest Policy* should also be referenced, and any further steps taken as appropriate to ensure fairness and transparency in the selection process.

2. Selection of Tendering and Evaluation Methods

- (a) The tender method selected shall give the best advantage to the University whilst upholding the broader principles of an open, fair, competitive and transparent procurement process. The method may be tailored to respond to projects that have unique requirements or circumstances. This may, in some instances, include non-standard tendering, for example on Contractor margins and rates with subsequent negotiation with the preferred contractor.
- (b) A Single-stage, Open Tender shall be the method normally used.
- (c) If a project is large or likely to attract numerous responses, the use of Multi-stage Open Tender shall be considered. In such cases, the University shall determine whether it has any obligation to consult with affected or interested parties in determining the tendering method.
- (d) A Selective Tender method may be used subject to the approval of the Vice-Chancellor, the Chief Operating Officer, the Director of Property Services or a designated University representative in accordance with the University's *Delegated Authority Policy*. Rationale for pursuing a Selective Tender includes, but is not limited to, risk faced by the University resulting from the complexity of a project, extraordinary time constraints, or requirements for select, specialist knowledge.
- (d) The Weighted Attribute Evaluation shall be the method normally used when evaluating tenders. The Lowest Price Conforming method may be used when satisfying a project's requirements involves few qualitative attributes or the project requirements present a low risk to the University.
- (e) The University, or its consultant, shall ensure:
 - (i) that the Request for Tender (RFT) documentation clearly outlines the evaluation criteria to be used and the weighting of these criteria (if appropriate); and
 - (ii) that the Tender documentation includes a project-specific version of the Health and Safety Specification and that an acceptable response to the information contained therein is a tender requirement.
- (f) The proposed method of tendering and evaluation shall be set out in a Procurement Plan and approved by the person who will approve the final contract.
- (g) The method chosen should be consistent with the University's Procurement.

3. Receipt of Tenders

- (a) The University, or its consultant, shall implement a formal and documented procedure in line with University policy wherein details (including the location, date and the names of persons responsible) of the opening of tenders will be recorded and signed off.
- (b) Prior to evaluation, the University, or its consultant, shall ensure that all Tenderers, and any sub-contractors that the Tenderers intend to use, are 'Approved Contractors', or have demonstrated that they will be able to gain such approval.

4. Evaluation of Tenders

- (a) The University shall appoint an Evaluation Panel consisting of, at a minimum, the Nominated Procurement Coordinator (in the Chair), a representative of the relevant University Department and the project quantity surveyor. A representative from the Financial Services Division shall be invited to attend all meetings.
- (b) All Evaluation Panel members shall sign a Confidentiality and Conflict of Interest statement prior to commencing the assessment of Tenders.
- (c) The Evaluation Panel shall confirm that:
 - (i) Tenders are submitted on the approved documents
 - (ii) Tenderers have submitted a tender price which is fully conforming for all works described in the documentation and that there are no unacceptable conditions, exclusions or exceptions.

Non-conforming tenders will be rejected.

- (d) The Evaluation Panel shall ensure that the agreed evaluation process is strictly followed in order to mitigate the risk of inadvertently creating probity issues during the procurement. Scoring of attributes and pricing should be in accordance with the procedure outlined in the RFT document.
- (e) The Evaluation Panel should follow the University's Tendering Procedures and Guidelines. In addition, when using the Weighted Attributes assessment method, individual evaluation scores for attributes should be discussed and a consensus reached; this is preferable to the averaging of scores.
- (f) With the prior approval of the Director of Property Services, where tenders are in excess of the project estimate, the University, or its consultant, may undertake negotiations with a schedule of amendments to the documents or tender to comply with the project budget. Negotiations should commence with the highest ranked Tenderer and be completed prior to going to the next highest ranked Tenderer. Records should be kept of all negotiations and amendments to the tender documents to clearly illustrate how a decision has been reached.
- (g) Following assessment and any additional negotiations (as per 4(f) above), the Evaluation Panel shall make a recommendation for award. Award shall normally be based on lowest price (for a Lowest Price Conforming Tender) or highest score (for a Weighted Attributes Tender), assuming all other requirements are met. Where a tender which does not have the highest ranking based on the relevant criterion is recommended for award, the reasons for this recommendation must be recorded in the Tender Report.
- (h) The Nominated Procurement Coordinator, shall produce a Tender Report which will include an overall recommendation for award, or that award should not immediately be made, in which case an explanation should be provided. The Report should normally include an analysis of the tenders, which may address, as appropriate:
 - Price
 - Programme
 - Compliance with tender documentation
 - Quality of Health & Safety submission
 - Ranking against approved assessment criteria

- Past performance
- Capacity to undertake the project
- Proposed project personnel
- Statutory compliance
- Sustainability

5. Final Procurement Decision

- A final decision on Award shall be made by the person or committee with the relevant delegated authority on the basis of the Tender Report.
- Where the Evaluation Panel makes a recommendation for award to a tender that does not have the highest ranking based on relevant assessment criteria, the approving person or committee shall consider the potential for decisions to be subject to judicial review or Ombudsman enquiry.
- After award, all unsuccessful Tenderers shall be formally notified. The University shall provide for the debriefing of unsuccessful Tenderers if requested. Information provided shall not include other Tenderers' pricing details.

6. Disputes

Should a dispute arise from a tender, the University shall appoint an independent review committee comprising a minimum of three people. At least two of the appointees should not be University employees. The dispute panel will provide written confirmation of their decision to the University and the complainant.

7. Post Tender Debrief

A Post Tender Debrief will be made available to any tenderer who requests it.

Related Policies, Procedures and Forms

- Capital Projects Unit - Procurement Process Flowchart
- University's Evaluation Guidelines for Tender Processes
- University's Risk Management Policy
- University's Conflicts of Interest policy
- University Policy on Acceptance of Gifts, Benefits and Gratuities
- University's Procurement Policy
- University's Procurement Guidelines
- University's Health and Safety Policy
- University's Approved Contractor Policy
- Property Services Procedures

Consultation

This document was based on revising and updating a previous in-house version, and competed after consultation with Property Services Division staff involved in capital projects and Financial Services Division staff involved in procurement.

Contact for further information about this Policy

If you have any queries regarding the content of this policy or need further clarification, contact the Director of Property Services, extn 8016 or email barry.mackay@otago.ac.nz