



Procurement Policy				
Version no	12	CM Reference	12233127[v8]	
Approved by	Executive Group			
Last review date (if applicable)	15/12/22	Next review date	17/10/2024	
		Select review period	1yr	2yr
(Legal Group review annually as recommended by the OAG. Escalated to Executive and Council if significant changes are required or every three years)				
Policy owner	General Counsel			

Purpose

This policy sets out the core framework for procurement by staff within our organisation and is designed to give practical guidance and confirm key policy requirements.

While much of Council’s procurement activity takes place within defined operational groups, who each have their own way of operating, there are overriding Council and Executive directives and operational policies which must be followed.

The policy is deliberately brief and is designed to be a useful tool for staff, while meeting the best practice guidelines of the Office of the Auditor General (OAG) and the requirements of the Local Government Act (LGA) 2002. The Policy is informed by the Government Procurement Rules but it is noted that Council is not bound by those rules.

Scope

This policy applies to the procurement or purchase of goods, services and works throughout Council and applies to all employees.

Definitions

For purposes of this policy, unless otherwise stated, the following definitions shall apply:

Term	Definition
Approval	Authority to proceed with the proposed procurement process from the person with the respective delegation.
Business Case	Sets out the justification for the procurement by evaluating the benefits, costs and risks of alternative options and provides a clear rationale for the preferred solution. Business cases should be documented as appropriate to the level of value and risk and approved by the person with the respective financial delegation. Justification detail will also vary depending on the overall value and risk involved.
Community Outcomes	Outcomes that a local authority is to aim to achieve to promote the social, economic, environmental and cultural well-being of its district in the present and for the future.
Competitive Procurement Method	This can span from verbal pricing through to requests for tender (RFT). Refer to Contracts Guide (SID>Contract Management>Contract Policies and Guidelines) and Attachment 2, or Council’s Contract and Risk Policy Manager for the range of options available.

Term	Definition
Procurement	All processes associated with purchasing goods or services, i.e., business case, tendering, contracting, completion and (if applicable) subsequent sale or disposal.
Risk	Effect of uncertainty on objectives (AS/NZS ISO 31000:2009). With procurement the focus is on the risks faced in the particular circumstances, e.g. what if procured (goods, services or works) is not fit for purpose/ does not deliver to expectations, including value for money and effect on health and safety in the workplace.
Sustainability	<p>Meeting the needs of today, without adversely affecting the needs of tomorrow. In a business sense, the key messages of sustainability tie in with what are considered sound business practices, such as building efficiency, minimising waste, maximising resources and optimising outcomes.</p> <p>Sustainable business practices will also see Council take into consideration its long-term interest in the viability of particular parties or sectors and could affect the type of procurement relationships and approaches developed. Risks to external parties may also be seen as risks to Council plans and objectives.</p>
Value for Money	Procuring effectively, economically and without waste, taking into account total costs and benefits. This does not necessarily mean the lowest initial price, but best price outcome when considering whole of life cost, including delivery timing, projected maintenance, operating and disposal costs and other outcomes or factors determined by Council policy.

Statements

1. When procuring goods, services or works, Council staff must take the following principles into consideration:
 - (a) Fit for purpose with no unnecessary “frills”.
 - (b) Sustainable business practice.
 - (c) Best value for money over whole of life
 - (d) Council’s Health and Safety Policies and obligations.
 - (e) Reasonable and fair opportunity for suppliers to participate (subject to principle (f) below).
 - (f) Comply with All of Government (AoG) or other collaborative contract supply requirements for the categories Council has joined.
 - (g) Demonstrated compliance with statutory requirements and good practice, such as Auditor General, SOLGM and other industry guidelines.
 - (h) Address issues of sensitivity, fairness and reputation with regard to both expenditure and process.
 - (i) Value for money is public value and takes into account outcomes as set out in Council’s planning and policy documents.
 - (j) Preference may be given to local contractors/suppliers where they can demonstrate capability, capacity and price competitiveness to ensure a quality project or service that represents value for money is provided. Noting local suppliers do have an advantage of location (reduced mobilisation costs).

- (k) Selective procurement (also known as direct appointment or single supplier negotiation) - this option is possible under the policy, however a justifiable business case and appropriate approval must back up any decision, as procurement by competitive process is always the preferred starting point. Staff need to be mindful of the implications, even below the current tender threshold level. The risk and implications are magnified further once the value moves above this level. Any decision above the threshold must also consider OAG Guidelines.

2. Note the following in relation to Community Outcomes:

- a) Community outcomes drive what Council does/delivers – as determined by elected members and informed by community consultation.
- b) Council procurement processes deliver the required projects/services on a best 'value for money' basis;
- c) Community Outcomes desired as secondary benefits (i.e. secondary to the primary procurement objective) should only be included to the extent directed by Council policy or on a case by case basis as directed by elected members. Any such requirements must be specified in tender documents at the time of release.

3. The following tools are included in this Policy to give guidance:

- (a) **Procurement Process Flowchart** - designed to assist with basics of research and decision making (Attachment 1).
- (b) **Procurement Policy Business Case Requirements** – tool to assist contract managers obtain approval for an appropriate procurement process (Attachment 2).
- (c) **Procurement Guide** - provides general assistance in relation to business case, approvals, competitive procurement method, contractual arrangements and risk factors (Attachment 3).

Responsibilities

Function	Responsibilities
Executive Group	Reviews and recommends policy to the Audit and Risk Sub-Committee.
Audit and Risk Sub-Committee	Considers existing procurement policy and amendments proposed by the Executive Group.
Mayor and Councillors	Considers and adopts policy papers as recommended by the Audit and Risk Sub-Committee.
Managers	Responsible for implementing policy and ensuring staff are given adequate advice and support in relation to procurement decisions. Council's Contract and Risk Policy Manager can also help with advice, processes and documentation.
Contract and Risk Policy Manager	Monitors changes in procurement requirements relevant to Council and manages policy and updating process. Assists with advice and tools for procurement process and documentation. Manages interface with external legal advisors.

Questions

Department Managers or Contract and Risk Policy Manager

References

Name	Location
<i>To open the documents below, please use the CM number including * and open the latest version.</i>	
Delegation Schedules	Refer to Council's latest delegations – available on Sid
Procurement Process Flowchart	Click here to view
Procurement Guide	Click here to view
Procurement Policy Business Case Requirements	Attachment 2:
Council's Contract Guidelines.	Contract Guidelines
SOLGM LG Sector Good Tool Kit	SOLGM - LG Sector Good Tool Kit
Documents available through group managers and specialist staff (e.g. H&S Manager, Contract and Risk Policy Manager) and in most cases Council's Intranet	<ul style="list-style-type: none"> • LTP, Annual Plan and Budgets • Council Minutes, decisions and funding policies, e.g. Community Grants • Payments in Advance Policy • Sensitive Expenditure Policy • CE directive covering payments in advance; emergency procurement instructions • Conflict of Interest Policy • Council's Sustainability Policy (Environmental Code)

Name	Location
	<ul style="list-style-type: none"> • Council’s Risk Policy • Council’s Health and Safety Policy • Employment Agreements and Staff Code of Conduct • Council’s Strategy for Transport Sector Procurement (part of Roading Assets – Activity Management Plan). • AoG Buyer’s Guides and other collaborative contract requirements (refer Contract and Risk Policy Manager) • Government Procurement Rules (not mandatory for Local Government)

Background

1. Marlborough District Council is a unitary authority with obligations to its community and ratepayers.
2. Previously guidelines from the OAG were directed at Central Government Departments and Agencies. However, from 2008 published guidelines included local authorities within their coverage.
3. Staff also need to be aware some procurement is strictly controlled, e.g. vehicles, IT, energy, “sensitive” expenditure and some is dealt with corporately to ensure value for money and consistency, e.g. office furniture and supplies.
4. From time-to-time groups or departments will enter into preferred supplier arrangements for goods, services or works which would be of value to other groups. When investigating any procurement option, research should include finding out if there are any arrangements already in place, e.g. “umbrella” contract with CH2M Beca arranged through Assets and Services (Planning and Development Group).
5. It is also worth considering Council belongs to a wider “group”, which can offer considerable buying power, e.g. Port Marlborough, GSB and the Top of the South Councils. There can be time and cost benefits in using “collective arrangements”.
6. In 2012 Council became a Participating Agency in relation to All of Government (AoG) supply contracts. Council is an “Eligible Agency” for AoG and other collaborative contracts arranged through central government agencies nationally.
7. This policy document was originally released as a Strategy, which included a policy statement. In 2015 it was reviewed and released as a policy document.

Key Considerations for Procurement

Risk factors:

- Current market environment
- Health and Safety
- Complexity
- Liability
- Performance measures/consequences of non-performance including delivery timeframes
- Fee and expense limitations/escalation (including effect of delivery timeframes on cost escalation)
- Cost/financial exposure, including currency exchange issues where applicable

- Consultant risks where a third party is managing aspects on behalf of Council
- Council reputational risk around sound procurement process and decision-making

Good practice requirements

- Competitive pricing – where appropriate, is preferred
- Sound procurement practice including full disclosure of conflicts of interest (Col) and any confidentiality issues – refer contracts guide and Col Policy
- Ensuring consultants use Council templates and follow Council direction for tender and COI management, good practice such as TET panel guidelines (e.g. TPL Form 8.1) and Council policies. This must include ensuring TETs led by consultants have at least one Council representative on the panel - these requirements apply/become more important in proportion to the contract/process risk/value e.g. a low value/risk RFQ can be treated differently to full RFTs. Also ensure document filing and retention is appropriately dealt with.

Further considerations

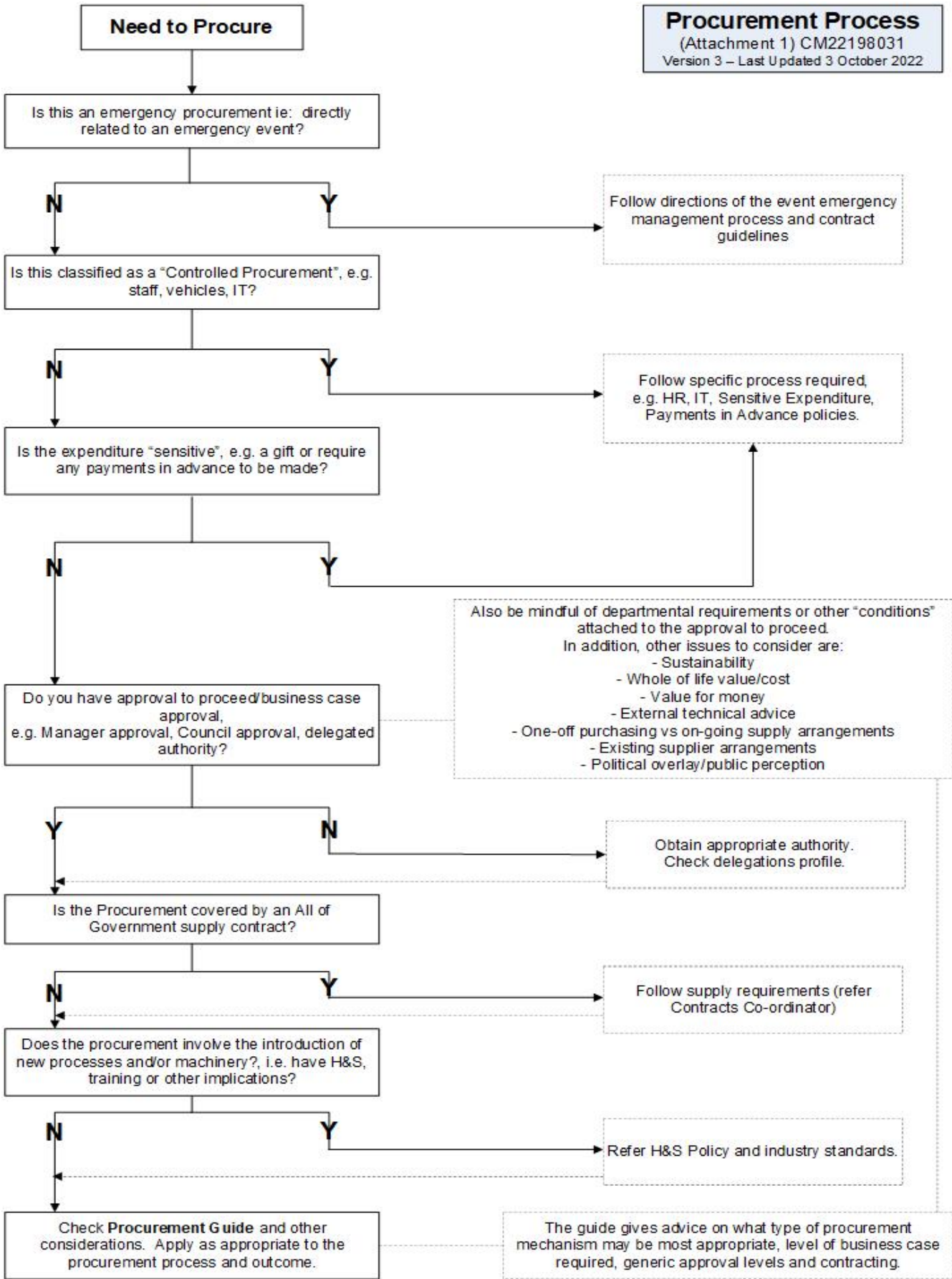
- Approved budgets are required before commitment to contract is made at any level
- Staff must also be aware of any delegation restrictions/requirements together with contract length restrictions. Maximum length is **seven years** but needs to be justified in the business case. Whatever the length, contracts must be re-tendered at end of term unless approved by Executive or exempted.
- The business case for procurement may be met by the annual plan process when specifically included). However this process does not generally include procurement processes.
- Preference may be given to local contractors/suppliers where they can demonstrate capability, capacity and price competitiveness to ensure a quality project or service that represents value for money is provided
- Some jobs <\$750k may still need to involve external legal review (refer Attachment 3: Procurement Guide).
- Where equipment is to be purchased which has an **IT component**, this must be reviewed with IM group as part of the business case development before any commitments are made.
- Consideration should be given to the implications that the procurement will have on applicable Community Outcomes, as determined by Council policy
- Template documents available include procurement flowcharts, prompt lists, tender and other process documents and contracts – all available through SID> Tools and resources> Contract Management.
- Staff may be asked to consider using supplier provided documents. The preference is for Council contract conditions (templates) to be used – discuss with Council's Contract and Risk Policy Manager (this includes ACENZ/IPENZ documents).
- Alterations to standard Council template terms can result in additional risk to Council. This should only be done in consultation with Council's internal legal group.
- Specialised documents are also developed from time to time to meet a specific need – talk to Council's Contract and Risk Policy Manager.
- Contract documents will only routinely be put in CM (Contracts area) when a contract number has been issued ie: if no contract number it will not be in Contracts Database and will only be saved in CM operational or project folders.

Record of Amendments/Revisions

Record any revisions/amendments which have been made and when.

Details	Approval by whom	Date
Presented to Management group & strategy adopted	Executive Group	12/7/10
Minor changes including reference to “sensitive” expenditure (2.3, 4.0 [para 6]) and adding 8.11.	Executive Group	27/7/11
Introduction of AoG contracts and updates to attachments	Executive Group	2/7/12
Minor wording changes only	Risk Manager/Contracts Coordinator	9/7/13
Include reference to collaborative contracts and Col policy + Guide updates	Executive Group	10/10/14
Update to new Council Policy Document format and content review	Executive Group	28/8/15
Updates to Attachment 2 Procurement Guide re default threshold for external legal review	Executive Group	17/12/15
Updates to Attachment 1 emphasising H&S requirements & various updates to Attachment 2	Executive Group	8/11/16
Minor updates to Attachments and extend review period to two years	Chief Financial Officer	24/10/17
Full review by Council’s Contracts and Procurement Legal Advisor due to LGA Community Outcomes changes and public statements that the Government Procurement Rules (or parts) were to become mandatory for LG (Note, the legal review does not support this assertion, but the Rules are an additional source of guidance around sound procurement practice.)	Executive Group	12/11/19
Increased limits and amended approvals relating to special economic measures following the 2020 COVID-19 lockdown, supported by central and local government (Two years initially).	ARSC/Council	21/4/20
Full review of the policy post-COVID. Retention of local focus where appropriate and inclusion of “direct appointment” (justified in an approved Business Case). Inclusion of Attachment 2 (previously a separate document)	Executive Group/ARSC/Council	16/12/22

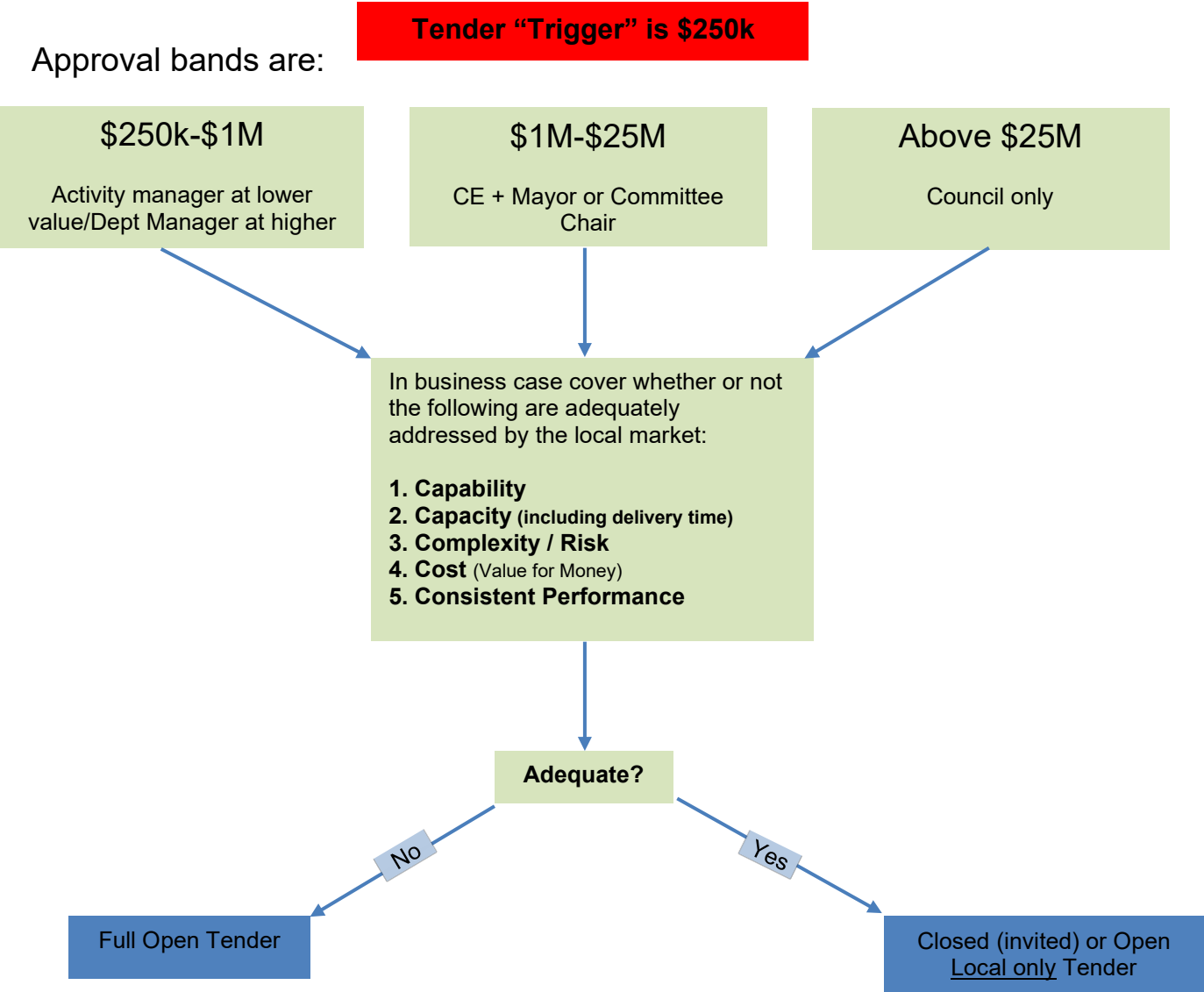
Attachment 1 - Procurement Process



Attachment 2: Procurement Policy Business Case Requirements

Once a procurement need is identified, this tool assist in identifying approval levels and keys aspects to be included in the business case for moving to the procurement process itself

The business case will be “geared up” as appropriate to value/risk



Business case demonstrates above criteria met for the public and is honouring Council’s commitment to consider local contractors.

Attachment 3: Procurement Guide

This guide is only a general indicator – talk to Manager/Contract and Risk Policy Manager.

NOTE: Deviations from standard process must be documented

Total Size of Procurement	Business Case (options to consider) Also check any departmental requirements (including specific delegation limitations)	Specification /Written Brief	Check Delegations for Specifics					Price Comparison Formal Quote	RFQ RFI RFP REOI Tender	Type of Contract				Contract System
			Approval							Supplier contracts considered case by case but MDC documents strongly preferred – see notes below				
		Graduated level based on risk, cost and complexity	Officer	Activity Manager	Department Manager	CE, Mayor and Committee Chair	Lawyer	Should be covered in Business Case	Should be covered in Business Case	Phone Email Order Letter	Minor Engagement	Minor	Full Contract template (or "one off" doc)	Consult with Contract and Risk Policy Manager (see note below)
\$0 - \$10,000	Verbal, email, note, memo		✓							✓	✓			
\$10,000 - \$25,000	Email, memo, report			✓							✓			
\$25,000 - \$250,000	Email, memo, report				✓							✓	✓	
\$250,000 - \$1,000,000	Memo, report				✓		External at \$750k		✓				✓	✓
\$1,000,000 - \$25,000,000	Report to CE + Mayor / Chair					✓	✓		✓				✓	✓
\$25,000,000 +	Paper to Council						✓		✓				✓	✓

Contracts of up to \$25,000 in value which are using Council's unchanged/unmodified standard approved templates, may not require internal legal review, subject to the associated risk assessment.

All procurement needs to be considered on the basis of cost and operational, legal and insurance risk.

Legend	
✓	= can do/must do – consider risk
	= needs further consideration /discussion
	= Does not apply/cannot do/not required but consider risk