**Procurement Manual** August 2022

# **Audience and Scope**

This document is relevant to all Unitec New Zealand Limited (Unitec) staff, including contractors, consultants and project manager who engages in procuring Works, Goods or Services on behalf of Unitec.

# **Owner**

This manual is issued by the Deputy Chief Executive Operations (DCE Ops), and implemented through the Procurement Manager.

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# **Introduction**

This manual sets out Unitec’s procurement processes to achieve the best outcome in terms of value, service and integrity, and to be used in conjunction with the Procurement Policy.

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| C:\Documents and Settings\st12134\Local Settings\Temporary Internet Files\Content.IE5\IERMAI60\MC900434750[1].png | **All Unitec staff must be aware of their obligations under the Procurement Policy and follow the appropriate processes as explained in this manual.** |

**What are the main differences between Procurement and Purchasing?**

***Procurement*** is a process that covers a range of activities starting from the identification of a business needs for Works, Goods or Services through to the end of any supply or contract that may result. This process includes sourcing of Works, Goods or Services using a set process such as but not limited to, the issuance of RFx[[1]](#footnote-1) and managing the process through a formal evaluation and awarding a contract.

***Purchasing*** function generally involves raising requisitions and purchase orders, typically against already established contracts, receiving Goods and Services and processing invoices for payment. Purchasing may at times involve requesting quotations for Works, Goods or Services of lesser financial threshold.

In the context of Unitec, these functions are to a substantial degree de-centralised, and these functions are undertaken by the Campuses and Service centres under respective financial delegations as well as in accordance with the policy and guided by this manual.

# **Purpose of the Manual**

The main purpose of this manual is to outline our procurement and purchasing and associated processes. The process can appear to be lengthy and complicated, particularly to Unitec staff who only get involved in procurement or purchasing on an ad hoc basis.

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| C:\Documents and Settings\st12134\Local Settings\Temporary Internet Files\Content.IE5\IERMAI60\MC900434750[1].png | **As a public funded tertiary education institute, the government requires us, and the public expects us to act fairly, openly and ethically in our procurement and purchasing activities and spend public money wisely. Our Procurement Policy and process are in place to help us to meet these obligations and protect the reputation of the institute, as well as to provide guidelines for best practice. Should any of our decisions be challenged, our procurement processes also enable us to demonstrate that we have acted appropriately.** |

# **How the Manual is set up and how it Works**

This manual has been designed to assist you to find what to do in order to complete your procurement process successfully. Before you read this manual, you need to have understood all responsibilities and requirements delineated in the Procurement Policy.

# **Operating Principles**

We will adhere to the Principles and Expectations as set up in the Procurement Policy. Moreover, Unitec being a publicly funded tertiary education institute, it is also a requirement to ensure all procurement activities are aligned to New Zealand Public Sector Procurement Principles.

All procurement decisions will be undertaken considering Procurement Guidance for Public Entities (2008):

Good Practice Guide issued by the Office of the Controller and Auditor-General (OAG) which can be found at <http://www.oag.govt.nz/2008/procurement-guide>

Government Sourcing Rules issued by the ministry of Business Innovation and Employment located at <http://business.govt.nz/procurement/for-agencies/key-guidance-for-agencies> and

# **Procurement and Purchasing Objectives**

All procurement and purchasing activity must adhere to the following objectives:

* Achieving value for money (VFM) and the ability to evidence it at any given point in time
* Minimize the Total Cost of Ownership (TCO), that is the total cost of the planned procurement over the whole of its life. Use this as a basis for decision making as the price of the upfront commitment is often very different to the cost over the course of its useful life
* Reduce the administrative work and resource cost associated with purchasing activities; e.g. Supplier rationalization, size and frequency of Purchase Orders and Invoices
* Optimize delivery relative to delivery charges and cost of internal transfer
* Provide procurement systems and processes that are as simple and standardized as possible to secure cost savings and efficiencies
* Effective management of risk/monitoring of VFM throughout the procurement life cycle

# **Delegated Authority and Financial Commitments**

The financial delegated authority framework established in the Delegated Authorities Policy applies to all procurement. No goods or services will be purchased on behalf of Unitec without proper authority and approval from a staff member having the appropriate delegated financial authority.

# **Getting Started**

**What am I looking to buy?**

The first thing to consider is whether the purchase is absolutely necessary and whether there is another way of satisfying the need without incurring the cost involved. Ask yourself “What will happen if I don’t buy this item or service?” If the answer is “nothing”, chances are you can get by without making the purchase. Sometimes the best value for money is to decide not to go ahead with your purchase.

**Existing Contract Arrangements**

Before you prepare to undertake a procurement exercise, check to see if there is already an existing Unitec-wide supply agreement, a contract or any similar formal supplier arrangement in place for the goods and or services you are looking at purchasing. Unitec is also legally eligible to use any formal current contracting arrangement Manukau Institute of Technology (MIT) may have in place. If you are not sure, contact our Senior Legal Counsel or the Procurement Manager for guidance.

**Contracted Supplier Arrangements**

Where Unitec has entered into contracted supplier arrangements, staff must purchase goods and or services from such suppliers. In most cases a contractual obligation will exist and non-compliance will undermine the relationship and Unitec’s negotiation strength, and may also expose Unitec to legal action.

**Other Public Sector Contract Agreements**

Unitec by virtue of being a Crown funded tertiary Institute will have access to contracts entered between the Crown and other related public sector agencies. These are called All of Government (AoG) contracts, Syndicated Government contracts and or Government Collaborative contracts. Please contact the Procurement Manager for further information on available contracts or by visiting <http://www.business.govt.nz/procurement> . Every effort must be taken to utilise any of these contracts.

# **How Do I Buy It and Whose Approval do I Need?**

**Financial Delegation Authority Policy**

Please read and understand the requirements and expectations set out in this policy before you start. In addition to the financial delegations, the Procurement Policy outlines the procurement thresholds and applicable process to follow when undertaking a procurement exercise.

**Approved budget**

Make sure you have both funds and approval prior to undertaking a procurement exercise. It is not recommended to undertake the process on pending approval and or funds, as if for some unforeseen reason, should you not get the approval or the funds and you have to terminate the process without concluding, you may run the risk of giving Unitec a bad reputation. Moreover, it is not the right thing to do.

**Getting in touch with the Procurement Manager**

The Procurement Manager’s role involves the provision of advice and guidance on all aspects of the procurement process including planning, solicitation, evaluation and obtaining necessary approvals for the award of a contract. It is a requirement that you involve the procurement manager for any procurement activity having an estimated value of $150,000 or above, alternatively, irrespective of the estimated value, if the requirement is of complex nature, it is prudent to get Procurement Manager’s guidance and or assistance. Please refer to ‘***Table 1***’ of the Procurement Policy.

**Role of the Senior Legal Counsel**

Senior Legal Counsel will guide you through each stage of the process relating to setting up a contract and reviewing of terms and conditions of contract etc. It is important you get the correct advice early in the process so as to minimise any risk to the Unitec.

# **Planning and Scoping Your Procurement**

**Procurement life cycle**

Most procurement activities go through the following six phases

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| 1 | Planning | Includes identifying the need, obtaining necessary approvals. Verifying the availability of funds and researching the market |
| 2 | Going to market | Identifying potential Suppliers and finding out what your options are. Preparation and issuing RFx documents and following the process through |
| 3 | Evaluation | Comparing your responses (quotations or proposals) received and deciding which one best suit your requirements |
| 4 | Award | Appointing your selected Supplier (subject to appropriate approvals), and placing a purchase order. |
| 5 | Performance | Making sure that the Supplier delivers what they were contracted to do. |
| 6 | Close-out | Includes the final administration, handovers, reviews and particular processes for physical works contracts |

**Planning overview**

Not all procurements will require a full-scale, detailed procurement plan. The key is to do the things required to achieve a good outcome and to cover off any risks to the institute, whilst keeping the process as streamlined and manageable as possible – ask the Procurement Manager for guidance.

Good planning:

* Clarifies exactly what you want to achieve and what needs to happen for the procurement to be successful;
* Provides an opportunity to involve stakeholders, and to gain their support and commitment from the outset;
* Defines what is included in the procurement and what falls outside it;
* Breaks down the project into logical, sequenced stages, with time frames;
* Identifies roles and responsibilities, and highlights whether the project requires you to bring on board any specialist knowledge/expertise;
* Helps you to keep things in focus and on track once the project is underway;
* Forms the basis of a well-scoped RFx document, making it clearer and easier for the market to understand your requirements; and
* If anyone challenges the procurement process, your planning documents can serve to demonstrate that you have acted fairly and in line with public sector procurement standards.

**Key planning stages**

The key planning stages for a formal procurement process are:

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| **Identify the need** | Clarify exactly what your requirements are. This may include some market research (see below), to give you a full understanding of the potential options and to help you clarify your requirements. Rate your requirements as essential, desirable or optional.  Is there anything you don't want or can't make use of? This is useful information to have when working through the evaluation stage and also during negotiations to make sure you don't end up paying for something you don't need.  Also check to see if we already have a contract or preferred Supplier arrangements in place for the goods or services you are looking to purchase. |
| **Who are the key players?** | Identify the decision makers, the stakeholders and any other parties who could have an impact on your project. Involve them early. Get their support and buy-in at the start. Work out how and when they need to be involved. |
| **Business case** | Use this document to state exactly what you are setting out to achieve and why - then get it signed off by the manager having the appropriate financial delegation. This way you can involve stakeholders and proceed with your project, confident that you have the support and authorization to do so.  It pays to check to make sure there are no other similar contracts offering a similar products or services to yours. It is important to state in your business case that you have done so, i.e. that you have in fact explored the availability of as similar contract already in existence, and or the availability of a preferred Supplier agreement and the fact none of these are available or even if available such contract or arrangement do not cover your requirement. |
| **Risk** | This includes doing a risk assessment, determining what insurance you will require, and health and safety requirements. These are covered in more detail below. |

**Market research**

You can gather information through informal market research, for example speaking to known Contractors or Suppliers, talking to other similar tertiary education entities.

Sometimes it will be more appropriate to adopt a more formal approach to your market research, such as where you want a more detailed understanding of the market, the range of potential solutions or where the market is heading in terms of technology, trends and innovation. For this, you can send a Request for Information (RFI) out to the market. Unlike other “Request for” documents, an RFI is purely a request for information and cannot be used for Contractor selection.

The Procurement Manager can help you finalise your RFI document.

**What kind of competitive process should I use?**

Your choice of competitive process will depend on a number of factors, including:

* What do the Financial Delegations require? At this point you need to refer to the latest version of UNITEC’s Procurement Policy for guidance.
* Is a competitive process appropriate – should an exception apply?
* Which RFx method best suits my procurement?
* One or two stage procurement process?
* One or two envelope process?

These factors, along with advice on when to use them, are explained in the next section ‘Requesting and Receiving Offers’.

The Procurement Manager will also help you determine the best approach. Any approach should be as simple and practical as possible, considering the amounts involved, the complexity and the level of risk.

**Identifying your procurement team**

The size and make up of your procurement team will depend on the value and complexity of your procurement project. Aim to strike a balance by making sure that all key stakeholders are represented, as well as any technical expertise required.

Consider the following when you are putting your procurement team together:

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| **Stakeholders** | People working in or responsible for the area that the procurement will affect are likely to be the people who understand, particularly at an operational level, what is needed and what will work. They are also likely to be the ones who will need to implement the selected solution and make it work, so they need to be involved. |
| **Additional or technical expertise** | In some cases, you may need to bring additional resource or technical expertise into the team, for example if you don't have sufficient resources within your own team or if you need some specialist input. |
| **Legal** | Will you need any legal advice, review or assistance preparing the contract during the procurement? Consider this especially for high risk, complex or strategic procurements. |
| **Procurement** | Including the Procurement Manager means that you have someone on hand to help you navigate the various stages of the process. |
| **Independent contribution** | For contracts of higher value and complexity, it is a good idea to include an independent team member - either someone from another faculty or Service Centre who has been involved in a similar process or an independent industry expert.  Additionally, where the risk involved in the process is medium or higher in your risk assessment, it is recommended that an independent evaluation panel member is appointed. |
| **Information Technology (IT) /Finance** | For projects that have a systems/information management aspect to them, contact Unitec’s IT representative at the start of your project. They can provide input and advise you whether (and, if so, how) they need to be involved.  Similarly, speak to the Finance Section so that they can help you with the financial aspects of your procurement. |
| **Probity** | For high risk, large or sensitive projects or projects where you think that the outcome may be challenged, consider including a probity advisor/auditor to observe and provide guidance on probity issues throughout the process. They can also provide a report at the end of the process to verify that it has been conducted fairly and appropriately. The probity advisor can be the Procurement Manager, Risk & Audit Manager or an external appointee as may be appropriate. |

**Choosing your evaluation team and evaluation method**

You will need to choose your evaluation team at an early stage, as the evaluation team should agree to the evaluation method and evaluation attributes (criteria) before the RFx is sent out.

When selecting the evaluation team, every effort must be taken to ensure there is no conflict of interest relating to roles and responsibilities, as well as with potential suppliers. The number of evaluators on the panel should be an odd number and no more than 5 (i.e. minimum 3 and maximum 5 evaluators).

It is important to spend time getting the right method and criteria for your evaluation. What you choose now will decide the successful Contractor or Supplier later. The agreed method and criteria then need to be recorded in the RFx document and the evaluation plan.

Here is a list of the common evaluation methods that are recommended for us.

* Lowest conforming price;
* Weighted attribute;
* Cost Efficiency Ratio; and
* Target price.

The *‘Evaluating offers’* section contains more detail on evaluation plans, your evaluation team and evaluation methods.

**Ethical and legal considerations**

As a public entity, we have a legal duty to act fairly and reasonably, and the standards we must meet may be higher than in the private sector. To act, and to be seen to act, in a fair, open and lawful manner, there are some important points to bear in mind as you plan and execute your procurement project.

Your process needs to be able to withstand public scrutiny and the possibility of being challenged, either directly subject to Official Information Act or via an official body such as the Office of the Ombudsman, or even through the courts. Don’t forget the media, *our ultimate goal must be to steer clear of the front page of the Herald!*

Make sure that your procurement and/or evaluation team and anyone else involved in your project understands the risks and their responsibilities in these areas:

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| **Conflicts of interest and perception** | Conflicts of interest include any business interests, professional relationships, personal relationships or other connections that might affect an individual's impartiality in any aspect of the project.  On the side of caution and to encourage people to disclose an interest even if they do not think there is a potential issue. A perceived conflict of interest can be sufficient to taint a procurement process, even if there is no actual conflict of interest. If in doubt, declare the interest.  If any kind of conflict of interest is found even if a perceived conflict, get advice from the Procurement Manager before carrying on with the procurement. Any decision and the reason for it must be recorded and mitigating action approved. |
| **Confidentiality** | Your procurement project is a legal process with commercially sensitive information involved – we are bound to ensure we maintain strictest confidentiality. |
| Check that everyone involved in the project understands the need to keep project information confidential and make sure they sign a copy of Confidentiality and Conflict of Interest Form.  For sensitive projects, include individuals who may not be working directly on the project but who may have sight of project information, for example if you send a document to someone for review or approval. This precaution protects the individual, as well as the integrity of the project. |
| **Impartiality** | When constructing your procurement plan, specifications and your evaluation method make sure you do not inadvertently disadvantage or favor a particular outcome or potential Contractor. |
| **Gifts** | Pay attention to offers of gifts, hospitality or anything that might be construed as an incentive from outside parties that are associated with your project, for example a potential Contractor or a Supplier. The easiest way to safeguard everyone's interests is for you and your project team to politely decline such offers for the duration of the project, until such time the decision to award a contract is made.  Please refer to guidelines relating to gifts and hospitality. This is covered in the Gifts and Sensitive Expenditure Policy. |
| **Communications** | All communications between the institute and any third party should be through the appointed Authorised Representative. For the process. This Authorised Representative is the person named on the cover page of the RFx document as the ‘Contact Person’.  This helps ensure that information is handled appropriately, accurately and fairly. |
| **Applicable Legislation** | Make sure you comply with all applicable legislation as you carry out your procurement. Some of the examples include:   * Commerce Act 1986; * Crown Entities Act 2004 and Crown Entities Amendment Act 2013 * Electronic Transactions Act 2002 * Fair Trading Act 1986; * Local Authorities (Members’ Interests) Act 1968 * Official Information Act 1982 * Privacy Act 1993. * Public Bodies Contracts Act 1959 * Public Finance Act 1989, Amend ’t 2013 and Financial Reporting Act 1993 * Public Records Act 2005 * Sale of Goods Act 1908 |

**Managing risk**

It is important that you actively think about and manage any risks around your procurement and any eventual contract. This will help you identify what could go wrong with the procurement, the potential consequences if any, and how to minimize their potential effects should they happen.

For small, everyday low risk purchases it is not necessary to do this, but for higher value/high risk purchases, it is essential. The extent and type of risk assessment depends on the nature, value, complexity and inherent risk of the procurement. If you are in any doubt, contact the Risk and Assurance Manager who will advise you how to proceed.

**Insurance**

Insurance is required for some contracts and for physical works contracts. Check with our Senior Legal Counsel what insurances are required for your project and include details of this requirement in your RFx document.

The successful Contractor will need to have the right types and value of insurance in place for the duration of the contract and any necessary subsequent time period. If the institute or a third party suffers damage or some other kind of loss as a result of something the Contractor does, the institute will look to the Contractor to cover the damage/loss so it is important that the Contractor has insurance in place to meet those costs.

The main types of insurance are outlined in the table below.

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| **Public liability** | Required for all construction (physical) works, professional service contracts and for groups or associations renting institute facilities.  Covers the policy holder for costs to third parties in respect of personal injury or property damage caused by the policy holder and arising out of negligent acts or mistakes in the performance of their work. |
| **Professional indemnity** | Required for all professional services contracts where the institute may rely on advice provided by the consultant/Contractor, for example incorrect advice, design/specification errors, negligent permitting/appraising. This insurance needs to be kept current for six years after the completion of the contracted works/services. |
| **Motor vehicle** | Required for all physical works and professional services contracts where motor vehicles are used in the performance of the contract.  In the event of an accident involving one of their vehicles, it needs to cover the policy holder for (a) the cost of repairs to their own vehicle and/or (b) the cost of damage to a third party's property. |
| **Plant and equipment** | Required for physical works contracts where an item of plant or equipment used in the performance of the contract is valued in excess of $50,000.  Ensures the Contractor's plant or equipment is covered for damage. |
| **Contract works** | Covers work in progress, including buildings. New buildings must be insured by Contractor. Work on existing buildings is covered by the institute. |
| **Vicarious liability** | Vicarious liability is liability that could be transferred from the Contractor/ consultant/organisation to the institute.  The institute requires its vicarious liability as principal to the contract to be covered under the Contractor/consultant/organisation's insurance policy. This ensures that the institute can claim under the Contractor, consultant or organisation's insurance policy.  The main reason behind this type of insurance is the philosophy that the Contractor/consultant/organisation is the primary cause of a claim and it is fair that UNITEC has the ability to claim under their insurance.  Institute’s own insurance is only a backstop with the first call being with the organisation or Contractor/consultant. |

**Health and safety**

Health and Safety requirements apply to all procurement whether they be the supply of goods or the provision of physical works or services.

We need to take all practical steps to ensure that contractors/consultants and their employees are not harmed while undertaking work on behalf of the institute.

Refer to the health and safety hazard management process for guidance or contact the institute’s Health and Safety Manager.

**Sustainability in procurement**

It is always a good practice to consider a “sustainable approach” when procuring works goods or services. The practical applications of a sustainable approach to procurement may include but not limited to:

* Minimising waste by using resources efficiently;
* Only buying what we really need;
* Choosing products that have a lower environmental impact during their life cycle;
* Considering the economic, environmental, and social impacts of the purchase over its lifecycle;
* Supporting Suppliers who are socially responsible and adopt ethical practices; and encouraging the market to offer sustainable options.

**Keeping a project file**

At the start of your procurement, create a project file and keep copies of all documents and correspondence related to your procurement process in it. This audit trail provides an extra level of risk management should any submitter challenge the competitive process for any reason.

Keep copies of the following in your file:

* Records of the outcomes of meetings during the procurement process, including decisions agreed by the evaluation team;
* Conflict of Interest and Confidentiality declarations and records of how any are managed;
* The procurement plan;
* The evaluation plan; and
* The RFx documents.

All correspondence, including email and other electronic forms of correspondence, used throughout the competitive process should be recorded in your procurement project file, together with:

* Notices issued to submitters;
* Written requests for information received from submitters;
* Information released to submitters throughout the process; and
* Confirmation of receipt of information by submitters.

If you send an email, ask the recipient to send you an email confirming the information has reached them.

For high value projects or if you have a large number of submitters, use a document register to record dates, times and details of correspondence released to submitters.

# **Requesting and Receiving Offers**

This section details the ways of taking your requirements to the market and of the market submitting its responses to you, as well as guidance on where a competitive process may not be appropriate.

**Methods for requesting offers**

There are four approved methods for requesting offers:

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| **Request for Information (RFI)** | Unlike other “Request for” documents, an RFI is a request for information. It does not constitute a request for offers, so cannot be used for Supplier/Contractor selection. However, it is useful if you want to improve your understanding of the market, possible Suppliers/Contractors, the range of potential solutions or where the market is heading in terms of trends and innovation. |

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| **Request for Expressions of Interest (REOI or EOI)** | Essentially an information gathering and short-listing tool. Once complete it is normally followed by either a Request for Proposal (RFP) or Request for Tender (RFT).  An EOI allows you to gather information on what options are available and to identify potentially suitable Contractors.  The EOI also gives all interested parties an equal opportunity to indicate their interest.  Using the EOI responses, you can short-list potentially suitable Suppliers/ Contractors, consider the different options, and refine your requirements prior to going to market with a full-scale RFP or RFT.  By sending your RFP/RFT to a short-list of Suppliers/Contractors, you are asking only those who have a realistic chance of meeting your requirements to submit.  The EOI process should not intentionally be used as a single-stage selection process, unless:   * You are using the EOI to form a list of pre-approved Suppliers/Contractors (who will subsequently be invited to submit responses to RFQ/RFP/RFTs as and when required) or * The response levels to your EOI indicate that there is only one suitable Supplier/Contractor. In this case you would more than likely proceed to negotiate directly with that one Supplier/Contractor. |
| **Request for Quotation (RFQ)** | Useful if you have a clear, well-defined specification or for standard “off the shelf” items where price is the main consideration.  Generally, for lower value, low risk projects but can also be used where you have a pre-qualified panel of Suppliers/Contractors.  You specify your requirements and ask Suppliers/Contractors to submit a price to provide them. |
| **Request for Proposal (RFP)** | Invites the market to submit offers to provide the works, good or services according to the specifications/requirements set out in your RFP document.  You can word your RFP to encourage the market to suggest alternative solutions or to request responses that adhere closely to your stated requirements.  The focus of the RFP process is on non-price attributes (e.g. track record, capability, innovation, sustainability issues) and a quality outcome. The price sought may be indicative only and then subject to final negotiation. Any negotiations need to be carried out in accordance with Audit NZ and OAG Guidelines.  An RFP may be invited as the second stage of a two-stage EOI+RFP process (see above).  Your evaluation criteria and the method you have chosen to evaluate the proposals received in response to an RFP should be decided at the procurement planning stage, before you send out your RFP. The RFP should include details of your evaluation criteria and of your intended evaluation method. These cannot be changed after the RFP has been issued. |
| **Request for Tender (RFT)** | Used where the specification is well defined, and you are able to request pricing information from Suppliers/Contractors that can easily be compared.  The difference between an RFT and an RFP is:   * With an RFT the specifications are well defined and there is little or no further room for innovation or flexibility. * With an RFP Contractors may suggest alternative ways of meeting your requirements.   An RFT may be issued as the second part of a two-stage process following issue of an REOI. |

Government procurement requires us to use Government Model Templates (GM Templates). All relevant RFx templates are available on the institute’s intranet procurement page. Alternatively, please contact the Procurement Manager for assistance.

**Things to consider**

Here are some things to consider when you are choosing your method of requesting and receiving offers:

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| **Open/Closed** | Open means that your request is publicly advertised, giving the whole market the opportunity to respond.  Closed means that the request is sent to a pre-selected list of potential Suppliers/Contractors only.  Public funded entities like Unitec has a duty to promote market competitiveness and to give all Suppliers/Contractors an equal and fair opportunity to respond to requests for offers so you should use open competitive processes unless there is a good reason not to.  If you are concerned that you may receive a large number of responses as a result of sending out an open request that may in turn make the evaluation process difficult to manage, consider using a two-stage process (see below) which will enable you to short-list potential Suppliers/Contractors before you send out your RFP/RFT |
| **Advertising** | To advertise your request for offers, the recommended method is to use government electronic tendering service (GETS).  If you are going with a closed request, you can opt to have your request sent to your pre-selected list of Suppliers/Contractors only. |
| **One-stage/two-stage** | Consider a two-stage process if:   * You are unsure of the market size; * You are unsure of the number of potential Contractors; * Your procurement is complex and difficult to specify; or * You are unsure of what the market options are.   Using a two-stage procurement process may seem more complicated, but it can actually be helpful in managing the process effectively, particularly if you are not sure how many responses you are likely to receive.  For example, you may choose to use a REOI + RFP/RFT combination. The REOI allows you to canvas the market for potential Contractors. This is also good from a probity perspective, as all interested parties are given an equal opportunity to make themselves known to you.  Using the REOI responses you can short-list potentially suitable Contractors (and refine your requirements based on their Expressions of Interest) prior to going to market with a full-scale RFP or RFT.  By sending your RFP/RFT to this short-list of Contractors you are asking only those who have a realistic chance of meeting your requirements to submit (submitting a proposal or tender can involve significant costs for Contractors). This also helps manage the number and, to some extent, the quality of the proposals/tenders to be evaluated by your evaluation team. |
| **One-envelope/two-envelope** | With a one-envelope process, submitters provide their pricing information together with the rest of their proposal.  With a two-envelope process, submitters supply their pricing information in a separate envelope. The envelopes containing the pricing information are kept in a secure place while the evaluation team scores the non-price aspects of the submissions. Once the non-price scoring has been completed, the price envelopes are opened and the pricing is scored.  The philosophy behind the two-envelope method is that it guards against the risk of price influencing the scoring of the non-price attributes. |
| **Exceptions** | Occasionally there is a case to request an exception from carrying out a competitive process or public advertisement. For example, in a genuine sole Supplier/Contractor situation there is little point in going to market if you have already identified that there is only one Supplier/Contractor who can meet your requirements.  A guide on when this might be appropriate is in the next section. These exceptions still need to be formally approved in advance, in line with the Unitec’s Procurement Policy. |

# **Exceptions to a Competitive Process**

This section gives some examples of where a competitive process or public advertisement may not be appropriate. This is not a complete list, rather some examples to help you to make decisions in such circumstances. The key is to choose the approach that is appropriate to what you are buying and the amount you are spending.

Any reasons for exception to a competitive process or public advertisement need to be fully documented and approved by the DCE OPerations.

**No Alternative Supplier**

There may be no alternative Supplier of the particular goods, works or services. For example:

* the goods, works or services are available from only one source;
* it is a condition under original Supplier warranties;
* compatibility with existing equipment, software or services is needed, and can be achieved through only one Supplier;
* for reasons connected with the protection of exclusive rights, such as patents or copyrights;

Before using this exception, you should complete a thorough search of the market and check with other similar organisations. The research should be documented and kept in the procurement file. You should still check that the Supplier meets criteria to deliver the goods, works or services.

**Limited Number of Suppliers**

A closed competitive process (not publicly advertised) may be appropriate where:

* there are a limited number of Suppliers of certain goods, works or services, established through a search of the market and a check with other tertiary education institutions (NB: keep the research in the procurement file);
* you can demonstrate that it is not practical or cost-effective to conduct an open competitive process; or
* there is a genuine limited time for the procurement process, and this is not caused by poor planning or lack of proper contract management. Please refer to *Emergency Procurement* (page 8 of 12) of the Procurement Policy to have a better understanding of emergency purchasing

**Panel Contracts**

A panel contract is an arrangement with a group of Suppliers pre-qualified to provide services as and when required.

A panel must be set up through a competitive process and how work is to be allocated from there (e.g. hierarchical, equal division of work, rotational basis, reliability and expertise) made clear in the initial procurement.

The number of Suppliers on each panel can vary depending on the type of goods, works or services, the anticipated amount of work, the type and breadth of work, and the numbers that would ensure a reasonable level of work to all panel members. The contract should include a provision for reviewing the panel membership and removing or adding members as required.

Based on panel categories, a secondary procurement process will be undertaken inviting suppliers with a panel and award a contract (or purchase order) subject to Unitec procurement policy.

There may be panels set up by Government Procurement having terms, conditions and costs/price agreed. We are free to use most of these panel agreements provide Unitec has access to these panels. Suggest contacting the Procurement Manager for assistance.

The document “Procurement Guidance for Public Entities” issued by the Office of the Controller and Auditor General contains more detailed information on panel contracts, and is available on their website.

**Syndicated Contracts**

You do not need a competitive process if a “syndicated” contract is available, which has been awarded by another similar organization in a manner generally consistent with this document. However, before using a syndicated contract, Unitec should consider:

* the effects of the syndicated procurement on the market and whether the Commerce Act 1986 applies (legal advice is recommended); and
* whether the syndicated contract represents good value for money for the Unitec’s particular needs in the current market circumstances.

Another type of syndicated procurement is “cluster” procurement, when a group of organisations approach the market jointly. The document “Procurement Guidance for Public Entities” issued by the Office of the Controller and Auditor General contains useful guidance on this, and is available on their website.

There are a number of syndicated government contracts in place. Some of these syndicated contracts are between the Supplier and a specific government ministry or department. Access to these contracts at times is at the discretion of the respective government ministry or the department as a party (the Lead Agency) to any specific syndicate contract.

We are legally eligible to use any contract MIT has in place as long as such arrangements are subject to a contestable process and are current/valid contractual arrangements.

**All of Government (AoG) Contracts**

Similar to government syndicated contracts, there is also another category of contracts called All of Government (AoG) contracts. Unitec being an eligible agency has signed up to a number of such AoG Contracts. Every effort must be exercised to utilize available AoG contracts where applicable and available where Unitec has signed-up. These contracts have been awarded subject to a contestable procurement process and since these are crown contracts, they offer a favored nation rates to all participating agencies.

Information on Government Syndicated and All of Government contracts is available from the Ministry of Business Innovation and Employment (MBIE) formally the Ministry of Economic development website <http://www.business.govt.nz/procurement>. Alternatively, please contact the Procurement Manager for assistance.

# **Writing your RFx and Putting It Out to the Market**

This section deals with writing an RFx, putting it out into the market and managing the process during this time.

**Writing your RFx**

Here are some tips on writing your RFx:

* Be clear in your RFx about what you require (your specifications), what information you need from the submitter and how you want the pricing to be presented. This helps submitters understand exactly what you are looking for from them. It should also make the responses more consistent in their format, making it easier to compare one submission with another thoroughly and fairly.
* There are different ways to write your specifications: for example, they can be:
  + Technical, which usually sets out the physical or mechanical characteristics of the goods (e.g. size,  
    capacity, types of materials they contain, tolerance) in a highly prescriptive way;
  + Functional, which focuses on what is to be achieved from what you are planning to buy - that is the desired outcome, rather than how it will be reached;
  + Performance–oriented, which sets out the performance parameters needed of the goods or services but not „how' to achieve this;
  + Or a combination of these things.
* Specifications may also include mandatory requirements, non-mandatory preferences, timetables, delivery dates and performance standards. The Procurement Manager can help you with the best way to formulate your specifications.
* Remember that your evaluation method and criteria must be included in your RFx before you send it out.
* For RFP/RFTs, ensure that you include the key legal requirements of the contract, such as the contract terms and conditions and the insurances the Contractor will need to hold.
* Consider whether assistance/review from our Senior Legal Counsel is needed for the RFx and contract terms and conditions.

Your RFx needs to be approved and signed off before you send it out. Generally, it needs to be signed by:

* The person who prepared the document;
* The person who reviewed for conformity, likely to be the Procurement Manager; and
* The relevant holder of financial delegation, likely the DCE, GM or Head of School. If the value of the contract is unknown use the budget amount allocated to the project to determine the appropriate delegated authority.

**Unitec General Terms and Conditions**

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| C:\Documents and Settings\st12134\Local Settings\Temporary Internet Files\Content.IE5\IERMAI60\MC900434750[1].png | **When sending out any form of request out to the market, whether it be a simple request by e-mail or a formal RFx, such a request must be subject to Unitec’s General Terms and Conditions for Purchase Orders (refer Procurement Manual). If the end stage of your procurement is a purchase order, then the standard terms and conditions as published will suffice. However, if the end result is a contract spanning over a period or the nature of the requirement is complex, you need to get assistance from the Senior Legal Counsel Office to obtain a suitable version of the Terms and Conditions to be sent out with your request.** |

**Putting your request out to the market**

To advertise your request for offers, use the Government Electronic Tendering Service (GETS). This is a free of cost service available to all government and government funded entities. Please contact the Procurement Manager for assistance and also to get your RFx advertised via this portal.

You will need:

* Your RFx document which has been approved and signed off (see above) and converted to a PDF file.
* Wording for your GETS Notice which will appear on the GETS website. Have a look on the website if you need an example.

If you are not using the GETS portal to advertise, and the process you are following is a restricted circulation, then make sure you keep a list of all organisations who have been issued with the RFx document along with justifications as to how these organisations were selected, and their contact details for all related formal communications.

**Closing day and time**

You need to give reasonable but ample time for Suppliers to study the RFx document, prepare and submit a price bid or a proposal. We also must be seen to be fair and transparent when we set the time period. Generally, for standard and non-complex requirements, a 10 working days period is the minimum. Whereas, if your requirement is something non-standard, and is complex in nature and to receive high quality submissions, it is a requirement that the minimum period should be no less than 3 weeks – ideally 4 weeks is good practice.

It is recommended that you receive submissions electronically to [tenders@unitec.ac.nz](mailto:tenders@unitec.ac.nz). It is recommended that closing time for submissions standardized at 14:00Hrs, and avoid closing on a Friday. you may also need to find out from our IT Section as to (if) any limitations/requirements of file size etc. and be sure to inform these instructions to the market via the RFx document.

**Current Suppliers**

When you go to market, current Suppliers may be perceived to have an advantage with their knowledge and relationship with Unitec and its staff. Make sure that you have a formal process in place for contact with any current Supplier while an RFx is in progress. Unitec staff should not discuss the new RFx at all unless the discussion is part of the formal procurement process.

**Handling enquiries, requests for clarification or further information**

All enquiries, requests for clarification or further information should be channeled through Unitec’s Authorised Representative, who is the person identified on the front cover of the RFx document as the ‘Contact Person’. Make sure you keep a record of all communications on the procurement file.

In the interests of fairness, any clarification/additional information provided needs to reach all interested parties at the same time unless it is of a commercially sensitive nature.

The rule of thumb to determine if an enquiry is commercially sensitive is ‘Would it disadvantage the potential submitter who asked for the information if the response was released to all the other interested parties?' Ask the Procurement Manager about this if you are not sure.

If the potential submitter considers that their enquiry is commercially sensitive and you don't, you can give them the option of withdrawing their enquiry. Explain to them that if they want the enquiry to stand, your response will be provided to all interested parties.

The recommended way to respond to enquirers' requests for clarification or further information is to place a ‘Notice to Tenderers' (NTT) on the GETS portal. You can also send e-mail communication to all those who have down loaded the RFx Document from the GETS portal. The GETS portal will have the list of interested Suppliers who have downloaded the document. The Procurement manager can assist you in getting that list for you.

**Briefing (question and answer) sessions**

Consider holding a briefing (question and answer) session or a site visit particularly:

* If your procurement is complex, unusual or sensitive;
* If the procurement is of a strategic nature or is core business related; or
* Where Unitec-Contractor relationship is central to the successful performance of the contract, and you want to ensure that potential submitters are aware of matters such as cultural issues or how your RFx features in Unitec's strategic direction.

If your requirement is related to physical works, such as construction, installation, repair or refurbishment work, then holding a briefing session or a site visit is mandatory.

If you plan to hold a briefing session, mention this in your RFx. You can confirm the exact date, timing and venue details nearer the time via a ‘Notice to Tenderers'. Keep a record of all Contractors/Suppliers who attend the briefing.

Keep a record of the questions asked and answers given and make sure that all participants receive a copy of these along with a copy of any additional information provided. This can be distributed using a ‘Notice to Tenderers'.

# **Managing Responses to Your Request for Offers**

**Delivery of responses**

You can ask for responses to your request for offers to be delivered:

1. As an electronic file to the nominated e-mail address or
2. In hard copy (paper) form, delivered to the specified location within Unitec

Contact the Procurement Manager during your planning stage to discuss which method is best suited to your type of procurement.

**Late submissions**

It is our policy to not consider late submissions. However, subject to what is written in the RFx document, we retain the right to consider late submissions where there is no material prejudice to other participants. In a situation such as this, it is recommended to seek guidance from the Procurement Manager before making the decision whether or not to accept late submissions.

**Response submission Hard copy responses**

Our RFx templates include instructions to potential submitters on how to address their submissions and where and how to deliver them.

We accept either Hard Copy delivered to the nominated Tender Box or Electronic submissions. In case of Electronic submissions, it is recommended to have a dedicated email address, ideally [tenders@unitec.ac.nz](mailto:tenders@unitec.ac.nz) which is administered by the Procurement Manager. Avoid postal, fax or direct email responses as these delivery methods are not secure.

After your stated deadline for responses i.e. the closing date, the submission must be collected from the person receiving them and you should receipt (record) all the responses. To ensure transparency and accountability, it is recommended that receipting of the submissions be done in the presence of the Procurement Manager. Once the submissions have been receipted, copies of the submissions can then be distributed to the evaluation team members for their review/study.

**Keeping documents secure**

Responses contain commercially sensitive information, so keep all documents relating to the responses in secure manner until they are distributed to the evaluators for review.

**Checking two envelope responses**

If you are using a two-envelope system for responses, someone not involved in the evaluation needs to check the non-price envelopes before they are released to the evaluation team to make sure that they do not contain any price information.

The Procurement Manager or someone nominated by the Procurement Manager will carry out this check for hard copy responses.

# **Evaluating Offers**

**Overview**

The evaluation phase covers the procurement process from the RFx closing date to the selection of the preferred Supplier/Contractor and the debriefing of Suppliers/Contractors.

The outcome of the evaluation phase is the selection of the Supplier/Contractor who best meets the stated evaluation criteria. This outcome is achieved by carefully considering each offer on an equal basis against the evaluation criteria.

**Evaluation team**

The role of the evaluation team is to:

* Individually and collectively evaluate tender responses; and
* Agree and sign-off on the agreed Supplier recommendation.

There are key considerations when selecting an evaluation team. These include:

* The value of the project;
* The technical complexity; and
* The number of stakeholders in the project.

Following consideration of these factors, an evaluation team should be selected from representatives of the stakeholders, technical experts, strategic and operational personnel. Try to keep your evaluation team numbers to a manageable number (3 or 5 depending on size of project). The team will need to meet on a regular basis throughout the process with all team members available to attend in order to evaluate the tenders/proposals and also to attend any site visits.

**Evaluation plan**

The evaluation plan must be consistent with the competitive process documentation, and must specify:

* Who is on the evaluation team;
* The timetable and process for evaluation;
* Roles and responsibilities;
* The format of combined evaluation meetings
* The evaluation criteria and methodology (as stated in the RFx);
* Marking schedules, prompts and guidelines;
* Any formulae for calculating pricing grades;
* Any processes for short-listing and negotiation; and
* Contingencies for situations where a suitable submitter is not identified.

It is also important that your evaluation plan reflects what has been decided in your planning phase.

The complexity of the evaluation plan will be related to the value of work, the scope of the information asked for and the risk of the decision being challenged.

The evaluation plan should be reviewed by all evaluation team members and must be signed off by them prior to your RFx going out to the market or at the very latest before the opening of any submissions. Seek input and feedback from team members to ensure the plan is understood and that the planned timeframes are achievable. The plan must be strictly adhered to throughout the evaluation and therefore it is important to make sure it incorporates enough flexibility to allow the evaluation team to make a fair and robust decision to achieve the best outcome for the project and Unitec.

**Evaluation risks**

The evaluation of procurement is the stage that is most likely to be challenged by a disgruntled submitter. Here are some tips to prevent the evaluation of your RFx being challenged:

* Don't make any changes to the evaluation model, criteria and weightings after the RFx has been released;
* Make sure all of the evaluation team have signed Uitec’s Confidentiality and Conflict of Interest Form, and are regularly reminded of these obligations throughout the process.
* Make sure that your do what the RFx says you will do. Use the method, weightings and formulae stated in the RFx;
* Keep excellent records of your evaluation, meaning evaluation notes and comments;
* Get the evaluation team to sign the final evaluation result; and document the final decision.

**Evaluation models**

The evaluation model is what is used to assess competing Suppliers’/Contractors' offers. It is important that the evaluation model or methodology fits with the project aspirations and desired outcomes. Also advisable is testing and the running of some ‘what if’ exercises to check this. Make sure that your model allows you to include all information requested.

The most commonly used models are;

* Lowest conforming price
* Weighted attribute and
* Cost Efficiency Ratio Method.

There are other evaluation models that are available to be used. For example, for Land Transport NZ subsidised contracts the evaluation models are those provided for in the NZ Transport Agency Procurement Manual and include:

* Direct appointment;
* Price quality;
* Risk price quality;
* Target price; and
* Quality based method.

It is also possible to develop a method suited to a specific project. Check with the Procurement Manager as to what is the most suitable evaluation method for your project.

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| **Lowest Conforming Price** | Basic model with strong emphasis on price. Useful where:   * you have a clear, well-defined specification or for standard ‘off the shelf’ items; * the work is not particularly complicated and the methodology is well tested; or * where you have a pool of capable Contractors and price is the main consideration.   The steps to follow are:   * Carry out the evaluation where each submission is reviewed for conformity to RFx requirements. * Open the price envelopes of the submitters who achieved a Pass-fully conforming; * Select the lowest price; and * Seek approval to award the contract.   Factors which you should consider when evaluating the non-price attributes under this model are likely to include (but will not be limited to) the following which are not in any order of priority:   * Technical competence; * Track record; * Quality assurance competence; * Management structure and skills; * Health and safety competence; * Potential of tender to provide sustainable value for UNITEC; * Resource profile, including access to plant, staff and [optional] financial strength; * Innovation potential to add value to UNITEC; and   Any other criteria considered relevant. |
| **Weighted Attribute**  **(WAM)** | Allows you to score proposals using a combination of non-price attributes (criteria) and price.  The evaluation team agrees the non-price attributes and then weights them according to their relative importance. Price is a weighted attribute.  For each proposal, the criteria are scored and each score is multiplied by the relevant weighting to give a weighted score. A formula is used to convert the price into a score. The weighted scores for each offer are added up to find the highest scoring proposal. |
| **Cost Efficiency Ratio**  **(CERM)** | Allows you to score proposals using a combination of non-price attributes (criteria). Price is not weighted.  Similarly, to the Weighted Attribute method, all the non-price attributes are scoured and weighted. Then, the total weighted non-price attribute score is divided by the final proposal price. The resulting factor is then multiplied by a larger number such as 100 or 1000 to arrive at a more tangible factor.  The proposal having the highest factor is the recommended supplier. |
| **Price Quality Method (and Quality Price Trade-off)** | For situations when quality of the Supplier/Contractor is very important and you are prepared to pay more for that quality. Quality attributes of the Suppliers/Contractors are scored and the preferred Supplier/Contractor is selected by balancing price and quality through the use of an appropriate formula.  This method of Supplier/Contractor selection is used in large civil infrastructure /construction projects and is an NZTA-approved evaluation method. |
| **Target Price** | Suitable for situations where you have a fixed budget. Potential Contractors are told the budget and asked to state what services/solution they can provide for that price.  The price factor is purely the comparison of the P&G and Margin based on the project’s allocated funding, the contractor is charging. This is an NZTA approved evaluation method. |
| **Brooks Law** | For situations where finding the best qualified Contractor (e.g. a consultant with particular expertise) is the key consideration.  Proposers provide one envelope containing non-price information and a second one containing price. The preferred provider is the one with the highest non-price score. Only the preferred provider's price envelope is opened, and negotiations on price and terms take place with them only. If the parties fail to reach an agreement, the price envelope from the second highest-scoring candidate is opened and the negotiating process is repeated.  You will need sufficient background knowledge (including market rates) to be able to negotiate from an informed position. |

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| **Common non-price attributes** | Following are common non-price attributes that are generally being used:   1. Proposed Solution    * Methodology    * Process    * Implementation    * Innovation 2. Capability of the Respondent to Deliver    * Resources    * Technical Skills    * Management Skills    * Financial standing 3. Capacity of the Respondent to deliver    * Track record 4. Innovation/sustainability    * Potential of tender to provide sustainable value for UNITEC;  * Health and safety competence (this will be a pass/fail attribute, not weighted)   If you are familiar with the Paired Comparison Matrix to weigh the importance of each attribute, consider using this matrix to help decide the weighting of each evaluation criteria.  Generally, you would not have more than 4 main non-price attributes. If you want more, consider having them under one of the main four attributes.  Before finalising your evaluation weightings, do some ‘what if' testing on your weightings. Any refinements need to be agreed by the evaluation team before you send out your RFx. Before the RFx is sent out, the evaluation panel should sign off the agreed weightings and document the final decision.  **Carrying out a two-envelope evaluation process**  If your RFx requires Suppliers to submit their responses in two separate parts, the two parts are usually as follows:  **Envelope 1** contains all non-price information and **Envelope 2** contains the price information only. |

**Short listing and negotiation**

Where your RFx allows, the evaluation team may decide to short-list one or more submissions as preferred Suppliers/Contractors that require further negotiation prior to awarding any contract.

Where only one submitter is selected (as the preferred Supplier/Contractor) for negotiation, it is advisable to retain the right to negotiate with the next highest submitter should a satisfactory outcome not be achieved.

Where short-listing and/or designation as the preferred Supplier/Contractor occurs, other submitters should be formally notified by the Contact Person (Authorised Representative) that they have not been successful, and the expected timing for communication of the contract award and evaluation feedback.

**Negotiation strategy**

Once a submitter (or submitters) has been short-listed for negotiation, the next stage is to form a negotiation team who will carry out negotiations with the short-listed Supplier(s).

The negotiation team should ideally be composed of no more than three people, including the Procurement Manager, who will bring the requirements of the evaluation team to the negotiating table.

It is important that the negotiating team clearly communicate to the short-listed Supplier that they have authority only to negotiate, and not to award the contract.

To be effective in negotiations, the negotiation team should formalise a plan for the process and identify clear goals from the negotiation that Unitec requires to be achieved in order for a contract to be awarded.

When considering a negotiation strategy consider whether the following points should be actioned:

* Ensure there is a full understanding of the impacts of the pricing submission. It may be necessary to negotiate some of the pricing detail and to reduce cost to Unitec where reasonable;
* Clarify any scope tags or assumptions in the preferred Supplier’s/Contractor's bid so as to avoid any risk to Unitec;
* Identify all areas in the submission that may need to be clarified in order for Unitec to be comfortable enough to award a contract;
* Ensure that any key personnel, subcontractors or sub-consultants nominated are confirmed by the preferred Supplier(s)/Contractor(s) for the availability nominated in the submission (or for more time if required);
* Confirm the timing, performance specification and reporting requirements; and
* Confirm the contract cut over or transition requirements and ensure that the preferred Contractor is able to meet the commencement date and requirements for start-up.

Each negotiation strategy will be tailored to the procurement process and the submissions received. It is important to programme milestones into the negotiation process so that a clear outcome can be achieved within a designated timeframe. All correspondence should be directed through the Contact Person (Authorised Representative) throughout the negotiation process.

**Due diligence**

In cases of high value, high risk or complex procurements, due diligence checks should be undertaken and may include the following:

* Site visits to check the adequacy and condition of equipment and resources;
* Financial viability (e.g. financial, credit or company checks);
* Qualifications or credentials of key personnel; and
* Working demonstration or pilot to examine work or product.

It is generally necessary to carry out due diligence checks prior to communication of final results and award of the contract. Formal due diligence checks are usually unnecessary for simple, routine procurements. Guidance on this matter can be obtained from the Senior Legal Counsel.

**Supplier debriefing**

After a contract has been successfully awarded and signed (see next section), the Authorised Representative needs to formally communicate in writing to all parties to confirm the final results of the process.

Providing effective feedback to the unsuccessful subUnitecters at the conclusion of the procurement process is important. At a minimum, all submitters should receive the following information:

* Name of the successful submitter;
* Price of the successful submitter;
* Number of submissions received;
* Price range for conforming submissions;
* Range of scores across submissions for each attribute evaluated; and
* The individual scores of their submission for each attribute evaluated.

It is good practice (and as required by law) is to disclose the successful price to submitters, however very occasionally there are reasons for not disclosing this. Contact the Procurement Manager for advice if you think this might apply to your procurement.

It is also good practice to provide the opportunity to submitters to receive formal feedback sessions. During these sessions you may wish to:

* Recap the evaluation process and criteria;
* Explain in broad terms why they were not successful;
* Discuss their areas of strength/compliance;
* Discuss their areas of weakness/non-compliance; and
* Provide feedback on how the submitter's response may have been improved.

These de-brief sessions demonstrate the UNITEC's professionalism and commitment to open and transparent competitive tendering. It also helps ensure that Suppliers/Contractors continue to bid for the Unitec’s work. Care should be taken that no sensitive information that relates to other tenders or proposals is disclosed during this process, and that all feedback is consistent with the evaluation results.

**Storage of evaluation material and submissions**

Keep the successful submission with the contract documents and it may even form part of the working contract document.

A copy of all unsuccessful submissions should be retained for twelve months from the award of the contract and then confidentially disposed of.

**No suitable submissions**

Where a situation arises that there are no submissions received or there are no suitable submissions, then the institute reserves the right to cease the procurement process. In these situations, then the entire procurement process will need to be reviewed by the Procurement Manager together with the Authorised Representative of the procurement project and, where appropriate, reported back to the Project Sponsor with recommendations for an alternative action.

**Cancellation or suspension of process**

In exceptional circumstances, such as if a material changes or significant issue emerges during the process, it may be necessary to suspend or cancel a competitive process. Refer to the RFx document to work out what actions we may take. Decisions of this nature should be fully discussed in the evaluation team and with the Procurement Manager before taking any action. Legal and/or probity advice may also be appropriate.

Participants will need to be alerted to the institute’s decision, and further consultation with interested parties and stakeholders may occur. Whether or not consultation is required or appropriate will depend on the nature of the procurement, the issue and any statutory requirements.

Circumstances that can lead to cancellation include:

* All tenders or proposals received are non-compliant;
* The tenders or proposals received cannot be adequately or fairly compared;
* There is evidence of collusion between participants;
* A significant probity concern arises during the process that creates a risk of legal action; and
* There has been a significant change to the goods or services being sought.

# ***C:\Documents and Settings\st12134\Local Settings\Temporary Internet Files\Content.IE5\IERMAI60\MC900434750[1].png*Entering into a Contract**

**What type of contract do I need to use?**

There are a number of ways of engaging a Supplier/Contractor, including the use of purchase orders and formal contracts. What you use should be as simple and practical as possible, considering what you are buying, the value and the risk around it. Whether you use a purchase order or a contract, either of them should reflect the relationship the institute wishes to establish with the Supplier/Contractor.

First of all, consider what option is best suited for your procurement, i.e. a purchase order or a contract. For one-off straight forward supply of goods or even certain types of services, a purchase order would be appropriate. However, for anything complex in nature, delivery spanning over a period of time, relating to physical works etc., should ideally be covered by a contract. The Procurement Manager will be in a position to advise you as to what form of documents are appropriate for your project.

If you use a purchase order, make sure all terms and conditions, specifications, Key Performance Outcomes are referenced within the purchase order itself. Make sure you specify the exact delivery location, and the delivery due date and the value of the purchase order must match with Supplier offer/quotation or as agreed by both parties.

If the most appropriate option is to use a contract (or an agreement), then you need to get in touch with the Legal & Contracts, get them involved early in firming up a suitable contract. You need to let them know what kind of a relationship you wish to have with the Supplier/Contractor during the life of the contract. Senior Legal Counsel Office will advise and assist you in making sure you put in place the correct contract terms and conditions.

When negotiations begin with a preferred Supplier/Contractor, update the draft contract with what is agreed in the negotiations. At some point, both parties will review the draft contract to ensure it correctly reflects what was in the RFx, the Contractor's response and what has been agreed during negotiations. The final contract document may be revised several times before it is signed.

**What approvals do I need to award a contract?**

This is determined by value. Discuss your requirements with the Senior Legal Counsel Office. Remember, before you seek approval to award the contract, you need to have all key issues resolved.

**Notification of award to the Contractor**

After your contract has been approved, the Contractor should receive a formal letter confirming that they have been awarded the contract, subject to a contract being finalised and signed. You can notify those unsuccessful subUnitecters ONLY after the contract is signed with the successful Contractor.

**Bonds, Bank Guarantees, Retentions and Indemnities**

We may request a bond, bank guarantee retentions or indemnities from the Supplier/Contractor of a significant or specialist physical works contract. These requirements must be indicated in the RFx, as there is a cost to the Contractor.

With regards to identifying whether you need any of these sureties, you need to talk to Senior Legal Counsel as well as the Risk & Assurance Manager to get help and advice.

**Employee or Contractor?**

Be careful that you are not contracting someone who could be considered to be an employee, or the institute could be liable for tax and other employment related matters (especially if a dispute arises). Even someone using a company to contract can be considered an employee by IRD or the courts.

Contact both the Senior Legal Counsel and your Human Resources Advisor for advice on whether a contract or an employment agreement is appropriate.

**Health and Safety**

For some physical works and related professional services contracts, the Contractor and/or its Subcontractors need to meet our Health and Safety requirements before they commence any work.

You may need to consult the institute’s Health and Safety Manager. If the RFx is in connection with physical works and related professional services, there will be a questionnaire must be part of the RFx that is sent out to the market.

**Who is authorised to sign the contract?**

The Agreement Authorisation Sheet of the contract features a ‘document approval' panel, which should be signed before the contract itself is formally signed. This is to show that the content of the document has been reviewed and approved. The Senior Legal Counsele will manage this process for you.

**Storage of signed contracts**

Once signed, one original signed contract should be sent to the Senior Legal Counsel for recording and storage. The second signed copy must be sent to the Supplier/Contractor. The business unit can retain a copy of the contract for their records.

# **Managing the Contract**

There are two distinct phases to a contract; everything that happens up to and including the point that the contract is signed, and what happens between the signature and the end of the contract (contract close­out). This section focuses on this second phase.

**Contract management plan**

As soon as the contract has been awarded, it is a good time to sit down with the Supplier or the Contractor and clarify in detail how the parties will manage the contract in terms of measuring performance, what happens if there is a problem, and, if applicable, transitioning to the new contract from a previous contract or Supplier/Contractor.

The parties can also agree the most effective way of handling reporting, the frequency and format of meetings, communications, and escalation points. All of this can be used to draw up a contract management plan which in turn can be used for (a) the basis of your contract schedules and (b) a reference point during the implementation stage.

The other benefit of working with the Supplier/Contractor on a contract management plan at this early stage is that their agreement and buy-in can be achieved at the outset. This is easier than trying to get the Supplier/Contractor to meet expectations after the contract is underway.

**Aspects of contract management**

Managing a contract involves three main areas:

|  |  |
| --- | --- |
| Performance or service delivery | Ensuring the Supplier/Contractor does what they are meant to do, and delivers the goods/services in the manner to the standards/specifications agreed, within the agreed timeframes.  This can be measured using Key Performance Outcomes, Service Level Agreements, or in some cases via inspection/sign-off. |
| Managing the relationship | First, decide on what kind of relationship you need in order to make the contract „work'.  At one extreme, for a one-off, low-value purchase, the Supplier/Contractor relationship is probably not even a consideration: The Supplier/Contractor delivers the goods and we pay for that.  At the other end of the scale, the relationship can be crucial to the success of the contract. In this case there may be a multi-level relationship with contact points at the operational, management and executive level. There may also be a focus on the relationship beyond the immediate contract: an understanding of each other's markets, the goals and key drivers of each other's businesses, information sharing at a strategic level and other high-level issues. |
| Operational/administrative activities | This includes:   * Controlling invoicing and payments; * Organising review meetings and associated documentation; * Managing and storing contract documents; and * Diarising key contract dates (performance dates, review dates, notice of renewal dates, expiry dates and the lead-in times to prepare for these). |

**Transitioning to the new contract**

The extent of your transition, planning will depend on the nature and complexity of your contract and the risk levels associated with it. Here are some of the typical areas that your transition plan might include:

* Clarifying the point at which the current Contractor's involvement stops and the new Contractor takes over;
* Introducing new teams/personnel;
* Change management: testing (especially if there is new hardware or systems involved), how service levels will be maintained during the change-over, getting staff on board and training;
* Transfer/exchange of information, equipment etc.; and
* Contingency planning in case things don't go as expected.

**Setting up a new Contractor and/or a new contract in PeopleSoft**

If your Supplier/Contractor is new, they will have to be set up as a vendor in PeopleSoft. A Request for Supplier Setup form needs to be submitted for approval by both Finance and Procurement Managers respectively. The Buyer/Purchasing Specialist in your area will be able to help you with this process.

Details of the contract also need to be entered into PeopleSoft so that payments made can be ‘released' against the contract.

**Resolving issues – what to do when things go wrong**

As part of your contract management, it is important to do the following:

* Track any variances between expected and actual performance outcomes;
* Record what actions are agreed to remedy these variances and/or any other issues;
* Raise and address any issues as soon as possible with the Supplier/Contractor; and
* Work constructively with the Supplier/Contractor to resolve any issues as quickly and efficiently as possible.

This approach is beneficial for two reasons:

1. Preventing issues is better than having to deal with issues; and
2. If you continue to experience problems with the Supplier’s/Contractor's performance, and you consider seeking compensation or termination of the contract, the Supplier’s/Contractor's legal advisors will want to see evidence that you have flagged the issues with the Supplier/Contractor and given them reasonable opportunity to remedy the situation.

**How do I make a change to a contract?**

Any change to a contract that involves price, scope or time frames needs to be formally documented in a contract variation and signed off, with the signed original kept with the main contract document.

If the variation involves a change to the overall value of the contract, add the cost of the variation to the existing cost of the contract, and refer to the institute’s Financial Delegations for details on who can approve and sign the variation.

Any variation to a contract requires the Senior Legal Counsel review and sign-off.

**Extending an existing contract**

From time to time, you may have a reason to extend an existing contract. This can be done easily provided the original contract had the option to renew or extend the term of the contract, or if there is an approved business case to delay going to market (e.g. if there is new technology expected to arrive on the market).

In the absence of the original contract having the option to extend the contract and you do not have a valid business case justifying the extension, you cannot extend the contract any further. Urgency or ‘lack of time’ to undertake a new procurement exercise are not business reasons for extending. They are merely lack of planning and accountability on your part. Best Practice is to plan ahead when you start the process, meaning how long do I need the services for and for what reason. Simply to get by a financial delegation threshold, do not enter into a contract at a lesser value and period and then expect to extend later. If in doubt, ask the Procurement Manager for advice.

# **At the End of the Contract**

**Review of contract outcomes**

At the completion of the contract term, it is good practice for the Contract Manager and other stakeholders to formally review the outcomes of the goods, works or services and identify the success or otherwise of the contract. The scale of the review and who is involved depends on the size and significance of the contract.

The timing of this review will depend upon your likely next steps after the contract has finished:

* If the contract is for a stand-alone project, the review can be undertaken when the contract is finished.
* If you think you may wish to exercise a right to renew the contract, and then start your review at least six months before you need to give notice of renewal (check the contract for the period of notice required to renew).
* If you are likely to go to market with a view to forming a new contract, you may need to conduct this review as part of your planning process 12 months or more before the end of your contract.

It is very important that you allow enough time to undertake your end of contract review so that lack of time does not force your hand in extending or renewing a contract rather than undertaking a fresh competitive process. Your contract management plan should identify the lead time required for any new competitive process and ensure that the evaluation and review is scheduled accordingly.

This review should consider questions such as:

* Does the contract meet current and future needs?
* Did the contract represent value for money? What worked well and what didn't?
* Was the work completed correctly and satisfactorily? (To determine this for physical works it is important to follow the processes in the close out of works contract flowchart.)
* Did the Contractor's performance meet current and future needs for levels of service, contract management and reporting?
* Are new goods and services now available that were not available previously?
* What are the costs, risks and benefits of going back to the market for these services or goods?
* What options for future procurement are available to Unitec under its own procurement policy?

This is important for the specification of similar future work, for managing similar risks and for identifying issues that can be resolved through changes to the contracting structure when such works or services are contracted out in future.

At this time, it can also be useful to provide a formal debrief session to the Supplier/Contractor about their performance. As a purchaser of goods, works and services, Unitec has an important role in ensuring that the market is developed to its potential. A formal debrief session is a good mechanism for building capacity in the marketplace and therefore ensuring that Unitec has access to quality Suppliers/Contractors and continues to receive value for money.

**End of contract options**

Where your contract is approaching its end, some key considerations for selecting an end of contract option are:

* The outcome of your end of contract review;
* Current and future business requirements, particularly if significant changes are anticipated;
* Risks and benefits of continuing with the current contract versus the whole of life costs associated with undertaking a new procurement;
* The need to adequately manage any planned change to ensure business continuity;
* Availability of any suitable alternative supply options in the market; and
* Any applicable terms and conditions of the current contract (e.g. specific renewal or termination conditions, notice requirements, contract expiry).

**Early termination**

Where an early termination of the contract is sought due to performance issues, send a report to the officer with appropriate delegated authority, detailing the issues relating to the Contractor's performance, your recommendations and proposed alternative actions. Early termination of a contract may have significant cost and risk implications particularly if performance bonds are attached. You should seek guidance from Legal & Contracts Office and/or obtain procurement advice before proceeding with this option.

**Expiry**

Where you intend to let your contract expire naturally and the contracted goods or services are no longer required, seek written approval from the officer with appropriate delegated authority to notify the Supplier/Contractor of our decision to allow the contract to expire.

If a purchase order has been raised within PeopleSoft, this will need to be cancelled if the Good or Services are not going to be supplied.

**Easy step-by-step guide to the procurement process**

Below diagrams are easy steps to understand the process to follow linked to the three levels of anticipated spending.







# **What Does That Mean?**

|  |  |
| --- | --- |
| Acceptance | Acceptance occurs when the party to whom the offer is made unconditionally agrees to the proposal of the party making the offer. |
| Agreement | An agreement exists when a valid and binding offer by one party has been accepted in writing by the other. |
| Approver | UNITEC staff member with delegated financial authority to approve a purchase request |
| Authorized level of spend | The expenditure envelope authorized by the Chief Executive. A letter of authorization is issued confirming the authorized level |
| Authorized Representative | The single contact point for submitters; the issuer of formal notices, correspondence or documentation; and recipient of all requests for information throughout the procurement process. This is the ‘Contact Person” as sited on the front cover page of RFx templates |
| Bond | A financial guarantee from a recognized NZ based bank or insurance company to ensure satisfactory performance of the contract requirements |
| Business Day | Means a day on which registered banks are open for business in Auckland but excludes Saturdays and Sundays |
| Capital equipment | New or replacement equipment with a GST exclusive purchase price equal to or greater than $2,000 |
| Capital item approval number | Is the unique identifier allocated to approved capital equipment |
| Capital plan | Is a six-year allocation of budget for UNITEC’s capital expenditure |
| Consultant | An individual, firm, company or other legal entity providing information, advice or service |
| Contract | An agreement or set of agreements between two or more parties enforceable at law |
| Contractor/consultant | An individual, firm, company or other legal entity providing physical works and services |
| Immediate family member | Includes parents, step-parents, spouses (whether by virtue of marriage, civil union, or de facto relationship), in-laws, siblings, siblings-in-law, grandparents, great grandparents, uncles, aunts, nephews, nieces, children, children of spouses, foster, step and whanau adopted children |
| KPO (Key Performance Outcomes) | A way of measuring key aspects of contract performance on an ongoing basis. These are agreed by both parties and they are assessed at agreed intervals throughout the contract. Examples of a KPO include percentage of orders fulfilled on time, number of service calls within a certain period, proportion of customer queries successfully resolved first time round |
| New Supplier | Any organization that is not available on the PeopleSoft purchasing listing, regardless of whether Unitec has had prior arrangements with that Supplier |
| NTT | Notice to Tenderer |
| One off Supplier | A Supplier that will only be used once for supplying goods and services |
| One Up Authority | The next line person/manager who has delegated authority to approve the Goods/Services |
| Operational request | A request raised for day-to-day running (operational) expenditure? There are two types of expenditure (operating and capital). Capital expenditure provides a benefit to Unitec for more than one year |
| Output | The desired result for a procurement or contract |
| Performance Specification | A specification which defines the output or standard required.  The method of achieving the output is usually determined by the Contractor/consultant or consultant |
| Preferred Supplier | A Supplier selected through a contestable procurement process, where Unitec has entered into supply arrangement, having agreed terms, conditions and price. These agreements are generally valid for a specific period and staff must purchase goods and or services from Unitec’s preferred Supplier. In most cases a contractual obligation will exist and non-compliance will undermine the relationship and Unitec’s negotiation strength, and may also expose Unitec to legal action |
| Private Tender | Competitive process where only selected Contractors are invited to respond |
| Public Tender | Publicly advertised competitive process, giving all potential  Contractors in the market place an opportunity to respond |
| Purchase order | An official order to supply goods and/or services to Unitec |
| Purchase order amendments | Are an adjustment to an existing purchase order value or status |
| Purchasing authority | The delegated level of authority from the Chief Executive to purchase on Unitec’s behalf |
| Qualifying travel expenses | Are pre-approved travel related expenses, excluding accommodation |
| Quote | The price and associated conditions offered by a tenderer or Contractor to provide goods or services |
| Reimbursable disbursements | Expenses incurred by the Contractor in the course of performing the contract and are not covered in the contract price, but may be reimbursed to the Contractor is agreed in the contract |
| RFI | Request for Information |
| REOI | Request for Expressions of Interest |
| Requisitioner | The person who has the necessary access rights in Technology One to raise a request for goods and/or services |
| Requisition/Order | An electronic requisition in Technology One which is used to request goods and/or services from a Supplier, once approved, the request is converted to an official purchase order by the Requisitioner |
| Retention | The amount withheld for a specific period to ensure that all contractual obligations are fulfilled |
| RFP | Request for Proposal |
| RFQ | Request for Quote |
| RFT | Request for Tender |
| RFx | A generic term for Request for Information (RFI), Request for Quotation (RFQ), Request for Expressions of Interest (REOI), Request for Proposal (RFP) or Request for Tender (RFT) |
| Service Level Agreement | Defines in detail what the contracting parties are expected to do, either on an on-going basis or in response to an event. It includes what needs to happen, who is responsible for this, timeframes, remedial actions required in the event of a problem, plus any reporting requirements. Service level agreements (SLAs) can be used in conjunction with key performance outcomes (KPOs) to compare and measure expected contract performance with actual performance |
| Specification | The defining of the standard and the method of achieving the output required |
| Staff | Includes all Employees, Board members and Contractors |
| Supplier | An external party that supplies goods and/or services to Unitec |
| Technology One or TechOne | The core Financial Management Information System used by the institute |
| Tender | Priced submission received following the issue of a Request for Tender following public advertising or by invitation to tender to selected tenderers |
| Travel advance | Authorized cash advance for qualifying travel expenses |
| Users | Authorized staff members with access to PeopleSoft using a user ID and password |
| Whole of Life Cost | The full value of a contract together with any other significant  additional costs that may relate to the procurement process or goods, works or services, e.g.   * Consultant costs; * Internal staffing costs; * Advertising costs; * Legal costs; * Due diligence costs; * Transition and change costs; * External Contractor costs; * Administrative costs; and * Ongoing costs such as maintenance, licensing etc. |

# **Document Management and Control**

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| --- | --- | --- | --- |
| **Document Number** |  | **Consultation Scope** | DCE Operations |
| **Category** | Procurement | **Approval Bodies** | DCE Operations |
| **Document Owner** | Procurement Manager | **Issue Date** | August 2022 |
| **Document Contact person** | Procurement Manager | **Review Dates** | TBC |

# **Document History**

|  |  |  |  |
| --- | --- | --- | --- |
| **Version** | **Effective Date** | **Created/ Reviewed by** | **Reason for review/comment** |
| v.1 | 01/08/2022 | Hasita Wimalachandra | New |
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1. Please refer to ‘What Does That Mean” at the end of this document for definitions. [↑](#footnote-ref-1)