



Massey University

**Tender Procedure
Finance Operations**

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1. Tender Procedure

1.1 Introduction:

The University purchases a variety of goods and services, ranging in scope from major contracts relating to building acquisition and maintenance, significant purchases in the IT area and routine but extensive office supplies and College specific purchases. This document pertains to all purchases likely to be in excess of \$100,000.

This document, which should be read in conjunction with the Procurement Policy located at <http://policyguide.massey.ac.nz> in the "Policies" section, sets out the procedures to be followed by staff in complying with the University's procurement policy.

All Massey University policies and procedures are available on the Policy Guide.

2. Procurement Planning and Processes

2.1 The Planning Process

The planning phase is one of the most important phases in the procurement life cycle. It is during this phase that the budget centre carries out its research, thinking and planning – the outcome of which establishes the process for the procurement.

This phase is also very important from the supplier's perspective. During the planning phase the budget centre looks to understand the market in terms of potential suppliers and solutions. During this period suppliers can engage in open dialogue with the university as they look to build that market understanding and formulate their requirements. The budget centre may not openly advise the market of its procurement needs during this phase, so suppliers will need to continue to gather their "market intelligence" through normal channels.

(a) Identifying the Need

The identification of the need involves the broad identification of what is required. As part of this process, the budget centre will identify stakeholders, may carry out some stakeholder analysis or surveys, and undertake spend and demand analysis. Following this activity the budget centre will have some preliminary views on the required services and solutions.

(b) Market Research

Where the budget centre undertaking the procurement does not have comprehensive knowledge of the market, it will undertake an appropriate level of market research to ensure a good business case is prepared and the decision on the selected procurement methodology is made in an informed manner. The various procurement methodologies that may be used are further discussed in *Section 2.2* below. This market research is often conducted at an informal level and involves sourcing information from the suppliers, other users of the same goods or services, specialist market analysts, professional organisations etc. However, in some cases the budget centre is looking for a more detailed understanding of the supplier market and the range of solutions and technologies that might be available. In these cases it may issue a formal Request for Information (RFI). Note the RFI is a request for information only, and is not a procurement method. An example of an RFI template is available at <http://policyguide.massey.ac.nz> in the "Related Documents" section.

(c) Business Case Development

For most high-value, complex or strategic procurements, the budget centre will prepare a business case as part of the project approval process. A full business case is required for all procurement where the total cost is likely to be in excess of \$500,000.00. For all others a Short Form Business Case must be completed.

The business case will normally:

- identify the outputs and outcomes to which the project contributes
- identify the objectives of the proposed procurement
- assess the costs, benefits and risks involved
- examine whether this initiative is feasible
- identify the preferred strategy and method for the procurement

- identify and assess options
 - show that the preferred option will meet the procurement objectives
- For lower-value, less complex procurements, a business case may not be required; however, as part of the planning process the budget centre should still develop a procurement strategy.

Templates for the two forms of Business Case are available at <http://policyguide.massey.ac.nz> in the “Forms” section.

2.2 Procurement using Research Grant Monies

The single, preferred or selective supplier agreements in place in the University apply to Research Grants

- Travel carried out for the purposes of furthering research will be purchased through the University’s designated travel agent, Orbit Corporate Travel.
- Any equipment, including computer equipment and software required for the purposes of research will be procured through the preferred supplier agreements in place for these goods. Ownership of these goods remains with the University when the research is completed or the grant has been expended.

Further information is available at <http://policyguide.massey.ac.nz> in the “Related Documents” section.

2.3 Procurement by Tendering

Tendering is a means by which goods or services can be purchased from a supplier selected on a competitive basis and is the preferred method to be used for purchases valued over \$100,000.

The two main forms of tendering by the University include:

- Closed tendering
- Open tendering

The documents that may be used for closed and open tendering, depending on the specification of the purchase, are the Request for Quotation (RFQ), the Request for Information (RFI), the Request for Proposal (RFP) and the Request for Tender (RFT).

- Use the Request for Quotation (RFQ) when the specification is clear and there is little flexibility available in the solution;
- Use the Request for Proposal (RFP) when there is flexibility available in the solution provision, ie when the desired outcome is specified but there are options to be examined for its delivery. An example is the provision of proposals for the financial models available in leasing computer equipment;
- Use the Request for Tender (RFT) for large scale purchases or projects.

The RFQ, RFP and RFT templates are available at <http://policyguide.massey.ac.nz> in the “Related Documents” section.

A Request for Tender, Request for Quotation or Request for Proposal should only be prepared following receipt of the appropriate expenditure approval.

2.3.1 Closed Tenders

Under a closed tender, invitations to tender are issued to a predetermined list of suppliers.

A list of predetermined suppliers can be established through a number of different means such as:

- A Request for Information (RFI) process to identify suitable potential suppliers;
- Previous dealings that the University has had with suppliers (previous tender rounds);
or
- References from other organisations or universities.

It is important that supplier information is regularly reviewed to ensure it is current and still valid for use in closed tenders.

Closed tenders have advantages when only a limited number of firms are believed to have the capability to supply and when confidentiality is important. They can help to control tender-related costs by limiting the number of responses, but can also carry the risk that a better source of supply may be excluded.

2.3.2 Open Tenders

An open tender, which is to be used when the total value of the purchase exceeds \$100,000, gives all potential suppliers the opportunity to tender, subject to reasonable restraint on the extent of advertising. The University may benefit from consideration of tenders from a wide range of suppliers. The disadvantages are that it can increase the cost and required resources and that it lengthens the timeframes involved.

A Request for Information process can be conducted prior to an open tender where all of the following conditions apply:

- There is an extremely large range of potential suppliers, and
- Shortlisting would provide useful information regarding the viability of suppliers, and
- Shortlisting would significantly reduce the cost to the University of the tender process.

2.3.3 Advantages and Disadvantages of Tendering

Because of the advantages listed below, tendering, particularly by open tender, should be the preferred purchase method for purchases over \$100,000. Nevertheless, tendering does incur a cost and consideration should be given to whether the cost will exceed any direct savings that may be gained together with the value of any other benefits foregone. Where it is considered the disadvantages outweigh the advantages an appropriate recommendation to this effect should be made to the University's Tenders Board who can authorise an alternate procurement method.

Advantages of Tendering

- Tendering establishes the most competitive price and terms available.
- It explores or tests the market for alternative solutions.
- It fulfils a public duty of fairness and equity between suppliers.
- It generates up-to-date market intelligence.
- It is likely to identify the best sources of goods and services.
- It encourages innovation and progress among suppliers.
- It reduces the risk of allegations of purchaser bias and political interference.

Disadvantages of Tendering

- The costs could exceed the benefits.
- Time and effort may be wasted.
- A risk of litigation may be created if good tendering practice is not followed.
- Confidential information may be released inappropriately.
- Existing commercial relationships may be prejudiced.
- It may generate more information than can be put to good use.
- The time taken to carry out a purchase may be significantly prolonged.

2.3.4 Preparing and Carrying out a Tender

(a) Specification of Purchase

A specification needs to be clear, concise, comprehensive and accurate. Otherwise the product or service may not be shown to meet the University's needs.

The specification of what is to be bought must address two broad subjects:

- The business/functional requirements of the product/service; what it is expected to do, and by when;
- The characteristics of the product/service, e.g. by reference to any recognised industry standards. The physical characteristics should include:
 - Technical requirements;
 - Operational requirements;
 - Performance standards;
 - Quality assurance requirements.

The specification should be drawn up so that it does not exclude alternative products or alternative suppliers from consideration. Specifying what is to be bought only in terms of a brand name or a particular supplier's product is not acceptable. If the product/service is only available from one supplier, whether because of expertise or because they are the sole producer, this fact should be attested to by someone responsible with the requisite knowledge and be supported by any available evidence (Selective Procurement).

(b) Evaluation

- Tenders should be evaluated against selection criteria which have been disclosed, in broad categories at least, in the tender documents. Suppliers' claims should be checked, particularly regarding standards and quality assurance, domestic servicing and through-life support, and environmental impact from production, use and disposal.
- Applicable customs duties, taxes and levies must be taken into account in the pricing of imported goods. A customs broker or the New Zealand Customs Service will be able to advise if the goods are subject to duty.
- Staff should also be alert to the possibility of low-priced tenders involving dumped or subsidised imports which unfairly compete with New Zealand products and could be subject to an application for trade remedies under the Dumping and Countervailing Duties Act 1988. For advice in such cases, the Trade Remedies Group of the Ministry of Economic Development should be contacted.
- Adequate records of the evaluation process and the reasons for final decisions must be kept. The University is accountable for purchasing decisions and may be required to provide information about them in cases of queries raised by unsuccessful tenderers and complaints investigations by the Ministry of Economic Development or the Auditor-General, or requests under the Official Information Act, for example.

Refer to **Appendix 7 "Evaluation of Offer"** for detailed information concerning the full evaluation process.

(c) Environmental Issues

- The Government has adopted a National Efficiency and Conservation strategy and a New Zealand Waste Strategy. These set national targets for increased efficiency in energy and resource use in all sectors of society. The university is expected to take account of these Strategies and targets in their procurement in ways that are consistent with the value for money and other policy and good practice considerations set out in these procedures.
- Procurement managers and staff should familiarise themselves with environmental quality assurance schemes which are increasingly available to help simplify procurement decisions in this complex area. By including environmental accreditation among their criteria for evaluating suppliers' bids, the University can help to improve the market for environmentally friendly and energy-efficient goods and services. Accreditation may be based on life cycle analysis (production, use and disposal) such as the Government-endorsed Environmental Choice New Zealand, on single resource use such as energy efficiency labelling of appliances, or on sustainable management practice such as the ISO 14000 series. Links to these resources are available from the Govt₃ website.
- Information sent to suppliers should include a statement of the University's approach to compliance with the Government's environmental policies. Consideration should be

given to developing appropriate standard clauses for tender and contract documentation. These could include requests for documentation on environmental impacts such as accreditations obtained, sustainable production practices, energy efficiency, recycled content, durability and reuse options, hazardous material content, and end-of-life disposal provisions. Unless specifically requested, such resource impact information is not likely to be included in offers to supply.

(d) Debriefing

- Information to tenderers should include notice that debriefing will be available on request, and give relevant contact details. This is important for good working relationships between buyers and suppliers, and may be a source of useful feedback from the marketplace, particularly in more complex purchases.
- The debriefing process should be as transparent as possible, with frank and honest exchange of information. Limits will be imposed, however, by the requirements of commercial confidentiality and need to maintain fair competition between suppliers.
- Debriefing should help unsuccessful domestic and other suppliers understand what they did, or are doing, to make their bids uncompetitive or how their goods or services might be further developed. Successful tenderers may also be interested in knowing how they performed against the evaluation criteria to help them in continuing to prepare competitive bids for future purchasing requirements.

(e) Supplier complaints

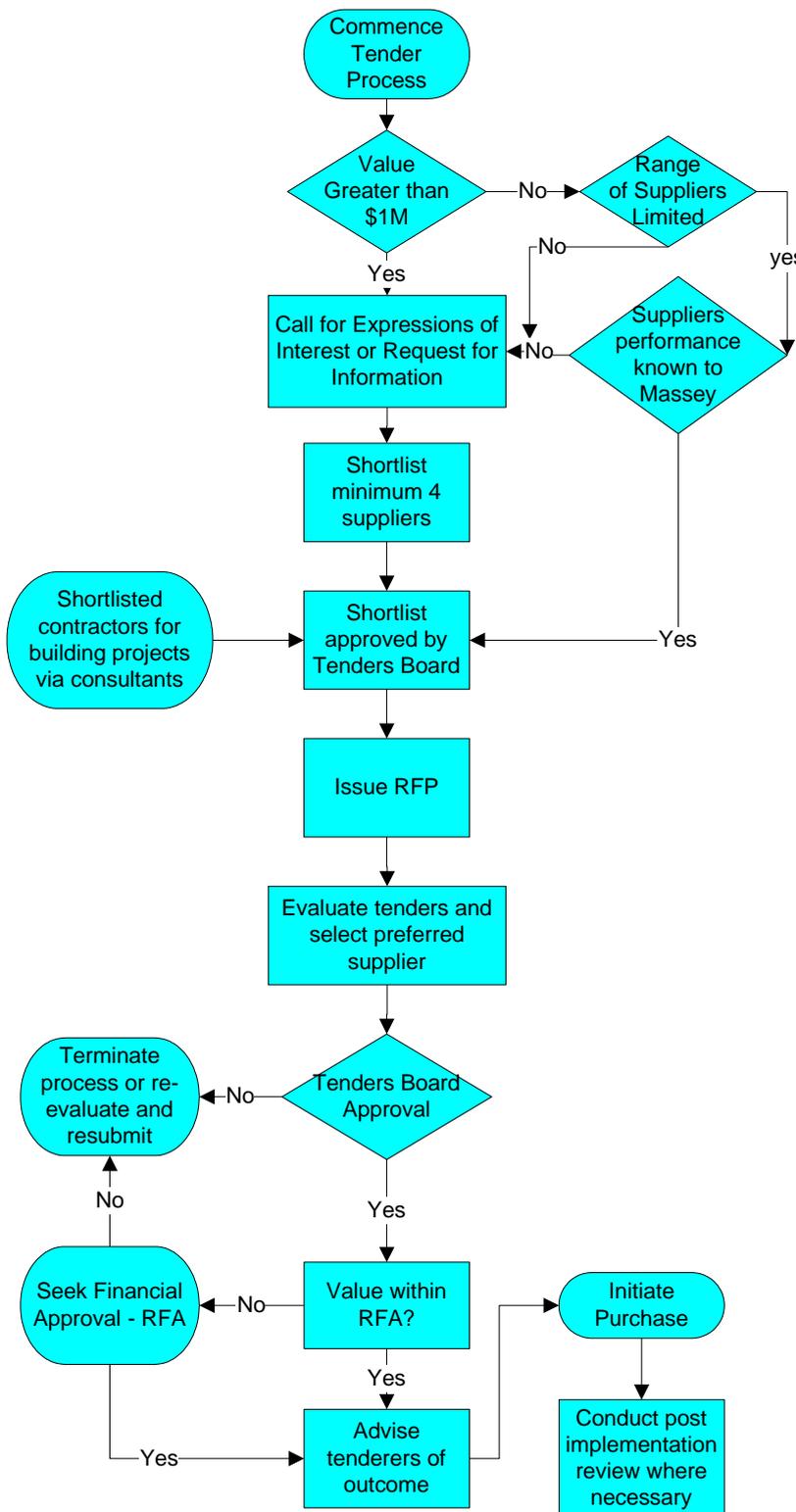
- Purchasing staff should give fair and objective consideration to complaints from domestic suppliers that they have not been given full, fair and reasonable opportunity, or from foreign suppliers that they have been discriminated against. Unresolved complaints may be investigated by the Ministry of Economic Development (Regulatory and Competition Policy Branch) in consultation with the University. If necessary the Ministry will report to relevant Ministers with recommendations on appropriate action. The Auditor-General may also investigate complaints of unfair treatment or mismanagement. Purchasing staff should take care not to let a previous genuine and reasonable (even if mistaken) complaint prejudice their fair treatment of the supplier concerned in future.

(f) Outline of Tendering Processes

The following chart details the steps and documentation required to prepare and carry out a tender. It is imperative that these procedures are adhered to as any failure to do so may create a legal liability for the University.

Note that these steps are also required when seeking Requests for Quotation and Requests for Proposal.

Note that the chart does not include the pre-tender processes that are undertaken, i.e. business case development and approval, annual budget round, development and approval of tender documentation. These can be seen in the flowcharts in Appendices 3 and 4.



Process Steps:

- If the procurement is likely to be in excess of \$1M then expressions of interest or a Request for Information (RFI) must be called for.
- Shortlist potential suppliers/contractors and submit for approval to Tenders Board.
- Tenders for building projects are conducted by external consultants, who provide the University with a shortlist of potential contractors. The shortlist requires the approval of Tenders Board.
- Where the project is less than \$1M and the suppliers performance has been approved by Massey, move straight to the RFP (Request for Proposal) stage.
- Issue RFP after obtaining shortlisting approval from Tenders Board.
- Project Group to evaluate tenders based on criteria selected and report their decision to tenders board for consideration.
- Ensure that tender is within approved Financial Authority and has been approved by University Council or Business Case Advisory Group where necessary.
- Advise tenderers of outcome and if necessary enter into negotiations with preferred supplier.
- Where necessary carry out a Post Implementation Review.

Other Information:

- To obtain sample Tender documents, RFI, RFP or RFT go to <http://policyguide.massey.ac.nz> in the “Related Documents” section or contact the Procurement & Insurance section
- Sample memo to Tenders Board is available at <http://policyguide.massey.ac.nz> in the “Related Documents” section.
- Weightings for criteria on which tenders are to be evaluated must be in place prior to tender closing date.

(g) Tender Processes Explained

Note that all aspects of sections (g) and (i) apply to Requests for Quotation and Requests for Proposal as well as Requests for Tender.

(i) Confidentiality Statements

The standard tender and contract conditions should include a clause recognising the confidentiality of all parties.

(ii) Rules of Tender

The rules under which a tender (closed or open) is to be conducted are to be set out in the invitations to tender. This offers certainty to both the University and potential suppliers, and also provides a firm basis for any ensuing contractual relationship.

Note that the Request for Tender and a supplier's response may constitute a process contract which is legally binding on the University. Accordingly the rules of tender must be rigorously adhered to in order not to create legal risk for the University. Refer to the Court of Appeal's decision re Transit NZ and Pratt Contractors. For this reason tenders must use the template forms with any variations to templates to be authorised via the University's Procurement and Insurance Manager.

(iii) Conditions of Tender

Conditions of tender should include at least:

- The date and time by which, and the place at which, tenders must ordinarily be received.
- How tender documents should be identified and to whom they should be addressed.
- A statement that the University has the right to reject any tender that does not comply with the instructions provided to tenderers.
- A statement that the University will not accept late tenders.
- Confidentiality requirements.
- A statement that the lowest or any tender will not necessarily be accepted
- Presentation of the tender proposal (written, oral or combination)
- Particulars of the information required and the format in which it is to be presented

As appropriate, conditions of tender may include:

- A statement regarding whether the University will accept and consider a tender that offers an alternative to the University's specifications.
- A statement regarding whether the terms of any tender may be subject to negotiation, whether before or after evaluation, and if so, under what conditions.
- Notification of the reservation of any of the University's rights, together with any associated disclaimer of responsibility.

(iv) Acceptance of Tenders

The invitation to tender should establish the criteria to be met for a tender to be accepted for consideration. In general terms this will be when the tender is confirmed as:

- Providing all the information required and in the form required.
- Not containing any unacceptable conditions of supply.

(v) Late Tenders

The University's standard policy is that late tenders will not be accepted. Only in exceptional circumstances will a late tender be accepted, e.g. for a failure of the post.

(vi) Notification of Evaluation Criteria

An outline of the criteria against which tenders will be evaluated should be included in the instructions to potential suppliers.

(vii) Post Tender Negotiations

Post tender negotiations can be an economic alternative to rejecting tenders outright and calling for fresh tenders. The terms under which negotiations may be conducted should be included in the invitation to tender.

The negotiations should be conducted in a professional manner and with a high regard for fairness and equity, both to the individual tenderer and between tenderers. It is not acceptable to play one tenderer off against another.

Post tender negotiations present an opportunity for the purchaser and supplier to explore possible mutual benefits and cost reduction in areas such as:

- Terms and conditions of supply;
- Delivery;
- Terms of payment;
- Warranties;
- Ongoing maintenance.

The conduct and outcome of negotiations should be properly documented, particularly in relation to the precise terms agreed between the parties.

(viii) Advertising for Tenders

An advertisement needs to identify the University, the centre or department/institute/school handling the purchase and the general nature and purpose of the intended purchase. Other information to be included in the advertisement will depend on how the tender is to be conducted.

All advertisements should be placed in whatever newspapers, trade journals and other publications are reasonably necessary to give all potential suppliers an opportunity to be considered. New Zealand based open tenders should also be placed on the GETS (Government Electronic Tenders Service) website. Contact the Procurement & Insurance Manager for further information.

A direct call for tenders (e.g. for readily available goods or services) should include:

- The conditions of tender;
- Sufficient particulars of what the University wants to buy;
- Particulars of the information to be included in the tender.

For larger or more complex purchases where it is impracticable to encapsulate adequate particulars in the advertisement, suppliers can be invited to obtain the tender documents and then to submit their tenders.

For major purchases and purchases involving particularly extensive documentation, suppliers can be invited to register their interest in tendering with a view to the University asking them to tender if it believes they are potentially suitable suppliers.

(ix) Registering Interested Suppliers

Registrations of interest from suppliers should be identified as such as soon as their registrations are received.

Every registration should be numbered and logged with identifying particulars. Registration documents for each tender should be held together in secure conditions ready to be considered for the issue of invitations to tender.

(x) Identifying Potential Suppliers (Closed Tender)

The basis for identifying potential suppliers is information about them. The source of this information may be the University's own records of past dealings, Industry NZ, or the suppliers themselves through advertising and registrations of interest received. But whatever the source, the University staff member arranging the tender should satisfy themselves that the information is:

- Formally recorded
- Accurate
- Relevant

- Up to date

For large or complex purchases, it may be necessary to enlist the services of internal or external persons having specialist skills and knowledge of the particular market.

Once potential suppliers have been identified, they should be listed. The list of potential suppliers who are to be invited to submit tenders should be submitted to Tenders Board for their approval.

(xi) Issuing a Limited Invitation to Tender (Closed Tender)

The selection process and reasons suppliers were selected should be recorded and the record signed off by the person(s) who made the selection. Where it is a large or complex purchase and only one person has made the selection, the process and selection ought to be reviewed and confirmed by another person.

A letter of invitation is then sent to each supplier, accompanied by tender documents as noted below.

(xii) Tender Documents

Tender documents should comprise three parts:

- The conditions of tender, including due dates, the required form of responses and the procedures to be followed by the tenderers;
- The specification of what is to be procured and the criteria against which tenders will be evaluated;
- The intended conditions of contract for supply.

As the conditions of the tender document will be incorporated into the contract with the successful supplier the University's legal counsel should be consulted when drafting the tender documents. See Procurement Policy section 0 for detail regarding when consultation of legal counsel is obligatory.

(xiii) Meetings with Potential Suppliers

As part of the tender preparation process, tenderers may wish to meet with university staff to clarify requirements regarding the goods or services to be provided, and how these may be tailored or developed more specifically to the University's needs.

To ensure that all potential suppliers are given the same opportunities, the conditions of the tender should specify level of access to University staff and/or documents as part of the tender preparation process.

All key discussions with tenderers, including information passed to them should be noted and included in a communication register for the particular tender. Headings for the communications register should include:

- Date
- Tenderer
- Questions asked
- Answers provided
- When provided
- Where stored
- Who else (i.e. other tenderers) information has been provided to
- When it was provided to other tenderers

(xiv) Receiving, Opening and Registering Tenders

Tenders should be identified as such as soon as they are received. The tender instructions provided to all tenderers should include a statement that tenderers are to clearly label their tender to ensure that, on receipt by the University, it is properly treated. All tenders received up to closing time should be held by someone having specific responsibility to do so, and remain unopened and secure from possible interference.

At the designated closing time, all tenders received should be opened and have their particulars entered in a register for that particular tender.

After registration, the tenders should be held together in secure conditions ready for evaluation.

Special procedures will need to be established for handling tenders received through an open channel, such as email or fax, if this method of submitting tenders is permitted.

(xv) Accepting Valid Tenders

All tenders received should be registered, but there is little point in including a tender for full consideration in the evaluation process if its content is clearly deficient or otherwise unacceptable in any significant respect.

Acceptance criteria should therefore be prepared for deciding whether a tender can be accepted as valid. These criteria must be included in the invitation to tender. The criteria will include ensuring that the tenderer has supplied sufficient information for the evaluation panel to be able to make a meaningful comparison with other tenderers. Comparing a tender against the acceptance criteria may be a relatively simple task for an uncomplicated purchase, or it may require considerable expertise for a specialised or complex purchase. Particularly in the latter case, the comparison may call for the exercise of judgement, including whether to seek post-tender negotiations if this option is available. Accordingly, people who have the necessary degree of knowledge and experience should be assigned to this task.

(xvi) Presentation of Proposals

It may be necessary to invite potential suppliers to make oral presentations on the capabilities of their products or services. The invitation to tender should make reference to this possibility.

The presentations also provide an opportunity for the evaluation panel to seek additional information relating to the supplier and their tender proposal.

(xvii) Evaluation of Tenders

Refer to **Appendix 7 “Evaluation of Offer”** for detailed information concerning the full evaluation process including evaluation models.

The people appointed as evaluators should bring to the task the required technical, commercial and, as appropriate, legal knowledge and experience, as well as the ability to make a balanced judgement to avoid any suggestion of bias.

The task of evaluation is often big enough to justify an evaluation panel. In this event, the work of the panel can be better served if the requisite skills are spread among the members. The membership of the panel could also be varied for different aspects or stages of the evaluation.

The ultimate users of the procured item can contribute a valuable perspective to the evaluation process. A product may meet all the technical specifications set for it, but be difficult or impractical to use by those who have to make it work.

The evaluation criteria form the primary mechanism for determining which tender most effectively meets the University's requirements. The criteria should:

- Address compliance with the specification, distinguishing between mandatory and desirable features;
- Require calculation of the Total Cost of Ownership of the proposed purchase. The TCO should be calculated on the same basis for all tenders;
- Prescribe a logical and defensible method of distinguishing between tenders;
- Facilitate the evaluation of features which are desirable, but not mandatory, and allow for assessment of features offered by the supplier in addition to those in the specification;
- Enable, for more complicated evaluations, meaningful weightings or relative values to be assigned to different features, together with a method of combining those weightings for ranking purposes;

- Identify and evaluate risks associated with each proposal;
- Provide a basis for determining whether and how to conduct the evaluation in stages, leading to a final short list.
- Enable competitive local content to be noted at the shortlist stage.

The evaluation process needs to lead to a decision. The decision may be to recommend acceptance of a particular tender or that no tender be accepted. Whatever the outcome, the decision will be adequately supported by documentation showing how it was reached. This will enable the decision to be defended and will provide a useful source of information for future comparable situations.

(xviii) Briefing Unsuccessful Tenderers

A decision needs to be made about the timing of notifying unsuccessful tenderers. There are two decision points and two possible notification points:

- When tenderers have not been included in the shortlist and have therefore been eliminated from further evaluation;
- When a final decision has been made after the evaluation of the shortlisted tenderers.

Unsuccessful tenderers should be informed why their tenders were not successful in order to lessen the chance of tenderers deciding not to bid for future procurements. Such advice should be limited to matters strictly relating to the tender submitted and the application to that tender of the evaluation criteria.

Preparing a tender can incur significant effort and expense on the part of a supplier. The University has an obligation to give proper consideration to every tender and to be able to demonstrate that it has done so and reached a sustainable decision on each tender.

The University should be able to make specific observations on each tender. While preserving the interests of other tenderers, it should be able to provide an assessment of the relative merits of one tender by comparison with other tenders.

(h) Tender Process – Communication Principles

The tender process should be a level playing field – all tenderers should have exactly the same opportunities and information. Any real or perceived bias or interference with the process can create a legal risk for the University.

Staff need to be conscious of the potential for things said and done to create unrealistic expectations or to mislead the other party as to the University's intentions.

If in doubt at any point of the process, staff should seek advice from their manager and/or the University's legal counsel.

(i) Clear Instructions for Tenderers

The tender documents should clearly set out instructions to be followed by tenderers when submitting their tender bid.

Information should be included specifying the time and date by which tenders should be received, and the address and contact person to whom tenders and enquiries should be directed.

The tender documents should be detailed and clear as to the precise nature of the goods/services to be procured and the evaluation criteria that the University will use.

The instructions should clearly state that late tenders will not be accepted.

Staff need to be familiar with the instructions in the tender documents and bear these in mind throughout the process as these will form the rules for all parties in the process, including the University.

(ii) Communications Prior to Tender Process

As a general rule there should be no communications held with potential suppliers about possible future tenders.

If preliminary work is required to be undertaken prior to tender it should be done by someone independent of the subsequent tender process or, if it can only be undertaken by a potential supplier, then it should be made clear in writing that the University has no commitment to enter into any future arrangement with the supplier.

(iii) Communications During the Tender Process

It is very important to ensure that communications during the tender process between the University and tenderers are strictly controlled and carried out in a fair and transparent manner.

Instructions to tenderers should provide a contact person to whom all general enquiries about the tender process should be directed.

University staff should avoid informal discussions with prospective tenderers about the tender process – regardless of whether a previous working relationship may exist between the parties. Informal exchanges may not only compromise the tender process, but also expose the University to legal risk.

Sometimes tenderers will seek further information or clarification of material in the Request for Tender documents – any further clarification or information provided as a result of such an enquiry should be provided to all tenderers.

It is also prudent to ensure that, where possible, all formal and informal communications that provide information, clarity or guidance should be in writing (including email) to ensure there is no doubt about what has been communicated.

(i) Safeguarding the University

(i) Seeking Legal Advice

If in doubt about the appropriate course of action at any point of the tender process, the University's Procurement and Insurance Manager should be consulted. The Procurement and Insurance Manager will arrange for engagement of legal counsel as required.

(ii) Negotiating the Contract

The need to keep the other party at arm's length does not end with the selection of a preferred tenderer. It is important to maintain an appropriate distance when negotiating the contract with the preferred tenderer.

- Post-tender negotiations are an effective risk management tool. Their primary objective should be to:
 - test the understandings and underlying assumptions which have influenced a tenderer in preparing its costings; and
 - achieve cost reductions through operational refinements or enhancements.
- Negotiations should not focus solely on reducing bottom line costs.
- The University should negotiate first with the preferred tenderer. If the outcome is unsatisfactory, it should then negotiate with the next highest ranked tenderer, and so on down the list until a satisfactory outcome is achieved.
- Purchasing staff should ensure that:
 - they conduct all negotiations ethically;
 - they do not potentially disadvantage other tenderers by negotiating an agreement which is materially different in scope from what was proposed in the tender documents;
 - a negotiated agreement is sustainable and does not compromise quality; and
 - where possible, key decisions can be made at the negotiation.

When negotiating a contract, staff need to be aware of the University's bargaining position and ensure that nothing compromises that. The acceptance of gifts and hospitality at this stage of the process could impact the University's bargaining position, so care must be taken.

(iii) Awarding a Contract

The decision to award a contract is to be taken in accordance with the University's policies for exercising authority to commit expenditure.

The person who has the authority to enter into a contract on behalf of the University needs to satisfy themselves before doing so that all relevant criteria and procedures have been complied with.

(iv) Conditions of Contract

The conditions of contract for supply will differ according to the nature and circumstances of what is being procured. Negotiation, signing and management of all contracts must adhere with University Contract Management policy and procedures, and contract signing delegations.

The University's standard contract template must be adhered to as a minimum. It is available at <http://policyguide.massey.ac.nz> in the "Contracts Templates" section.

The drafting of a contract in accordance with the conditions set out in the tender documents requires careful wording and where the template is varied or unsuitable, advice is to be obtained from the Procurement and Insurance Manager who will engage University's legal counsel as appropriate.

(v) Monitoring Supplier Performance

Where the goods and services to be delivered are developed over a period of time, it is important that key project milestones are established and specified in the contract. Where the contract is for a service relationship such as outsourcing, then it is equally important that levels of service performance are established at the beginning of the contract period.

The project milestones should provide key performance criteria by which the University can monitor and evaluate the progress made by the supplier to deliver the product/service to the required standard (cost, timeframe and quality standards).

The results of the ongoing monitoring are to be recorded and signed off. The person(s) monitoring should obtain sufficient evidence of the likelihood of the key targets being met in time, cost and quality. Documentation of the reviews should briefly describe the nature of the evidence obtained, and include an opinion on the likelihood of targets being met and whether or not action will be necessary to bring performance back on target. Where there is a change in the scope of the project (such as cost) approval needs to be sought from the person with the appropriate authority.

(j) Code of Ethics for Staff involved in a Tendering Process

The standard of behaviour for staff involved in the tendering process is particularly high. Failure to meet these standards could create a situation in which the University is legally liable for the breach.

To ensure impartiality and integrity, the following precepts should be observed:

- (i) Declaration of Interest: Staff members must declare any personal interest which may affect, or could be perceived to affect, their impartiality in carrying out any aspect of their work. Refer to the Policy on Conflict of Commitment and Interest located at <http://policyguide.massey.ac.nz> in the "Policies" section.
- (ii) Confidentiality and Accuracy of Information: Staff members must respect the confidentiality of information they receive in the course of their work, and must not use that information for personal gain. Information given by staff members in the course of their work must be accurate, impartial and not designed to mislead.
- (iii) Disclosure of Information: The commercial confidentiality of information provided by tenderers must be respected and must not be used to attempt to influence other tenderers.
- (iv) Preparation and Issue of Invitations to Tender: Tender specifications should be flexible enough to ensure that they achieve adequate market coverage, and that a sufficient number of local suppliers are given the opportunity to submit quotations.
- (v) Business Gifts: Staff members should not accept gifts from suppliers, other than items of minor value, such as business diaries or calendars. Refer to the Discretionary

Expenditure Policy located at <http://policyguide.massey.ac.nz> in the "Policies" section for further information.

- (vi) Hospitality: Staff members should not accept hospitality from suppliers if such hospitality is likely to be perceived by other staff members as being an influence on a business decision. When it is difficult to decide what is or is not an acceptable offer of a gift or hospitality, staff members should either decline the offer or seek the advice of a superior. Refer to the Discretionary Expenditure Policy located at <http://policyguide.massey.ac.nz> in the "Policies" section for further information.
- (vii) Contact with Tenderers during the Evaluation Process: To ensure that the integrity of tender evaluations is not prejudiced, any contact between tender evaluation personnel and tendering suppliers should be on a strictly formal basis.
- (viii) Use of Consultants: If the university engages consultants to aid in the tender evaluation process, they must also be subject to the constraints listed above. Contractual agreements with such consultants should contain a statement to this effect, and should also stipulate that information gained during the tender evaluation may not be disclosed for a specified period after the evaluation.
- (ix) Selection of Successful Tenderers: Technical specifications and evaluations should be checked by a second evaluating staff member to confirm their freedom from bias, and to verify that the offers contain all the elements necessary to enable them to be compared on a common basis.

(k) Documentation to be retained

The staff member leading the tender process is responsible for ensuring that the following documentation, where applicable, is retained on file for that particular procurement:

- Project and procurement plans if they exist
- RFI, RFP, RFT, etc documents
- Notices to Tenderers
- Tender closing record
- Submitted tenders
- Records of any meetings with tenderers
- Records of tender evaluation
- Evaluation report and Recommendation
- Records of any negotiations
- Tenders Board approval / decision
- Letters of acceptance or decline

3. Payment Mechanism

3.1 Purchase Order

All purchases will require the creation of a Purchase Order via Mass-e-Mall.

Placing an order with a supplier either:

- Signifies the University's acceptance of a supplier's offer to sell something to the University, on terms and conditions agreed, making a contract between them complete; or
- Constitutes an offer by the University to the supplier to purchase something, often on terms and conditions to be agreed.

An order represents a formal, official document that details the University's requirements and authorises the supplier to charge the goods or services to the University.

An order will take one of two forms:

- The computer-generated Purchase Order created via Mass-e-Mall;
- A contract document executed by the University.

The main consideration regarding the appropriateness of each form is the cost and level of risk associated with the purchase.

In general all major purchases should have a formal contract which is accompanied by a Purchase Order. A major purchase is defined as one that commits the university to \$100,000 or greater.

(a) Monitoring Purchase Orders

The state of unfilled orders should be monitored. Monitoring should incorporate:

- Checks with suppliers that delivery dates will be met. If timing is critical, frequent pre-delivery checks may be necessary;
- An ability to acknowledge part-delivery of an order and follow-up on delivery of the remainder;
- Recording any difficulties with suppliers, for use in future evaluations;
- Ensuring that all unfilled orders are recorded as a commitment for the financial year end.

4. Procurement Management

4.1 Procurement Policy/Tenders Board

The Tenders Board has been established to provide a University focus on major procurement decisions. This focus will facilitate standardised application of policy and process.

The Tenders Board has the responsibility to oversee the procurement processes for all purchases requiring a commitment in excess of \$100,000 over the life of the contract.

The members of the Tenders Board are:

- VC - Chair
- General Manager, Strategy and Finance
- Director, Financial Operations

The Terms of Reference for the Tender Board are:

- To ensure that the tender process is fully compliant with University policies, and includes reviewing the processes followed, including advertising of the tender, selection of potential tenderers, relevant evaluation criteria, selection of preferred supplier and also that appropriate financial approvals are in place.

4.2 Requirement to Consult with Massey University's Legal Counsel

To ensure that the University's procurement decisions and processes are supportable and do not create legal risk for the University, the University's Procurement and Insurance Manager must be consulted to review

- Requests for Information,
- Requests for Proposal,
- Requests for Tender,
- Preferred Supplier Agreements, and
- Contracts for supply

If any contract or document noted in the above list does not comply with the parameters of the Procurement Policy; legal advice may be sought by the University's Procurement and Insurance Manager and that advice will accompany the recommendation to Tenders Board. For example:

- If the University's standard templates for the documents listed above are being altered or deviated from;
- If any of the mandatory clauses in the templates are not included.

Note that the Procurement and Insurance Manager has the responsibility and accountability to request that legal counsel be consulted whenever he/she believes legal risk is being created.

Note that it is critical to err on the side of caution and seek appropriate advice when any concern exists. The establishment of a process contract can result from incorrectly worded RFT documents and may result in litigation for the University. Refer to the Court of Appeal decision in the case between Transit NZ and Pratt Contractors Ltd dated 12 Feb 2002.

Documents for review should be forwarded to the Procurement & Insurance Manager. In a covering memo please include:

- Name and Department of person to return the reviewed document to;
- Date by which review needs to be completed in order to meet other timetabled events (e.g. Tender Board meeting);
- Specific questions, if any;
- Special circumstances which may validate divergence from standard processes.

4.3 Supplier and Relationship Management

The following table shows the principles of supplier and relationship management and the information that needs to be accounted for in contracts for supply.

Principles	Contract for supply to include information about:
Account Management	<ul style="list-style-type: none"> • Who in each party is responsible for the management of the account? • What are the rules of engagement? • How is delivery monitored against the terms of the contract for supply?
Performance Indicators	<ul style="list-style-type: none"> • What will the supplier be measured on? • How often will the assessment take place? • What remedies will be available if performance indicators are not met? • Who will determine when remedies are required and at what level?
Relationship Management	<ul style="list-style-type: none"> • Who has primary responsibility for relationship with the vendor?
Communication	<ul style="list-style-type: none"> • How will communication strategies be implemented to assist in supplier management? • What are the communication standards and agreed methods? • What contact points are acceptable?
Invoice processes	<ul style="list-style-type: none"> • What is the agreed process for invoicing? • What are the payment conditions, e.g. 20th of month following, payment within 7 or 14 days?
Payment Authority	<ul style="list-style-type: none"> • Who is responsible for authorising payment?
Commercial decisions	<ul style="list-style-type: none"> • If changes are required to the contract, i.e. brand supplied, delivery schedules, payment dates; who is authorised to make them, using what processes for consultation and notification?

4.4 Communication with the Media re Massey University Procurement Decisions

All communication with the media is to be cleared by or conducted by the Director, Marketing and Communications. Accordingly, any approaches by the media should be referred to the Director, Marketing and Communications and staff should not attempt to answer queries themselves.

If a procurement decision is likely to arouse media interest the Procurement & Insurance Manager and/or relevant Budget Centre Manager should ensure that the Director Marketing and Communications is briefed adequately.

5. Leveraging the University's Procurement Spend

The University is using its leverage as a significant purchaser in various markets to:

- Maximise the amount of goods and services procured while lowering the overall spend;
- Ensure best value for monies expended;
- Achieve best effect of economies of scale.

In order to achieve these aims, efficiencies in procurement have been implemented. These efficiencies include:

- The development of single, preferred and pre-qualified supplier agreements.

Staff involved in purchasing need to:

- Adhere to the preferred supplier agreements in place;
- Encourage staff on whose behalf purchases are being made to adhere to the relevant preferred supplier agreement;
- Notify the Procurement & Insurance Manager if it is believed that a Preferred Supplier Agreement should be established for a particular service or product or product type.
- Take into account the whole of life costs that apply to goods and services –
 - For goods, the whole life cost is the total of what it costs now to buy the goods, own them, use them over their life time and dispose of any waste at the end of their life.
 - For services, the whole life cost is what it costs now to buy the services plus on-going costs of receiving the service plus any cost of discontinuing the service.

5.1 Criteria for Consolidating Procurement

The decision to consolidate the procurement of particular goods and services has been based on

- The estimated annual expenditure on those items across all campuses, i.e. expenditure over \$100,000 pa
- A contract for supply being of two years' duration;
- Specialist knowledge, e.g. PCs, building leases;
- The discretion of Heads of School/Director or DVC;
- Demonstrated cash savings to the University.

5.2 Current Preferred Supplier Agreements

Single, preferred or pre-qualified supplier agreements have been preceded by an open tender process for supplier selection.

The Preferred Supplier Agreement Register, which is located at <http://policyguide.massey.ac.nz> in the "Related Documents" section, identifies the items for which Preferred Supplier Agreements are established and information for your guidance.

Note that in general, a Preferred Supplier Agreement is owned by the group with that specialist responsibility, so questions should be directed to the “owning” group.

6. Managing risk in the Procurement Process

6.1 Business and Legal risk

Risk is mitigated by compliance with Procurement policies and procedures, and compliance is monitored by management review, and periodic internal audit.

Managers must read and understand the following policies and procedures.

- Purchasing Policy and Procedures
- Delegations Document
- Policy of Conflict of Commitment and Interest
- Disclosure of Serious Wrongdoing (Whistle Blowing policy)
- Creation of Contracts Policy and associated procedures
- Discretionary Expenditure Policy

6.2 Health and Safety

Procurement managers and staff need to ensure health and safety is included in procurement decisions. Steps to ensure this are:

- Identifying any hazards associated with the procurement
- Ensuring hazard acceptability is included in purchase specification
- If possible (in order) eliminating, isolating, or minimizing hazards in the purchase decision
- Consulting with University Safety personnel to ensure health and safety is included in implementation of new or modified equipment, material , services or process
- Obtaining supplier information for safety use of new or modified equipment, material, services or process
- Documenting new hazard controls associated with new or modified equipment, material , services or process.

Appendix 5 details safety responsibilities in procurement, design, manufacture, and supply

7. Associated Policies

7.1 **Procurement Policy** (located at <http://policyguide.massey.ac.nz> in the “Policies” section)

7.2 Procurement using Research Grant Monies

All procurement using research grant monies, whether funded from internal or external sources is subject to the university’s Procurement Policy, Procurement procedures and Tender procedures

7.3 Other Associated Policies, Templates or Forms

Separate policy, procedures or documents relating to each of these areas and are available on the University’s website at located at <http://policyguide.massey.ac.nz>

Conflicts of Commitment and Interest Policy

Delegations document

Draft Memo to Tenders Board

Environmental Policy

E O I Expression of Interest Template

Full Business Case Template

Intellectual Property Policy
IT Software and Hardware Policy
Legal Compliance Policy
Policy on Staff Conduct
Preferred Supplier Agreement Register
ROI Request for Information Template
RFP Request for Proposal Template
Short Form Business Case Template
Terms of Trade Policy
Treasury Policy

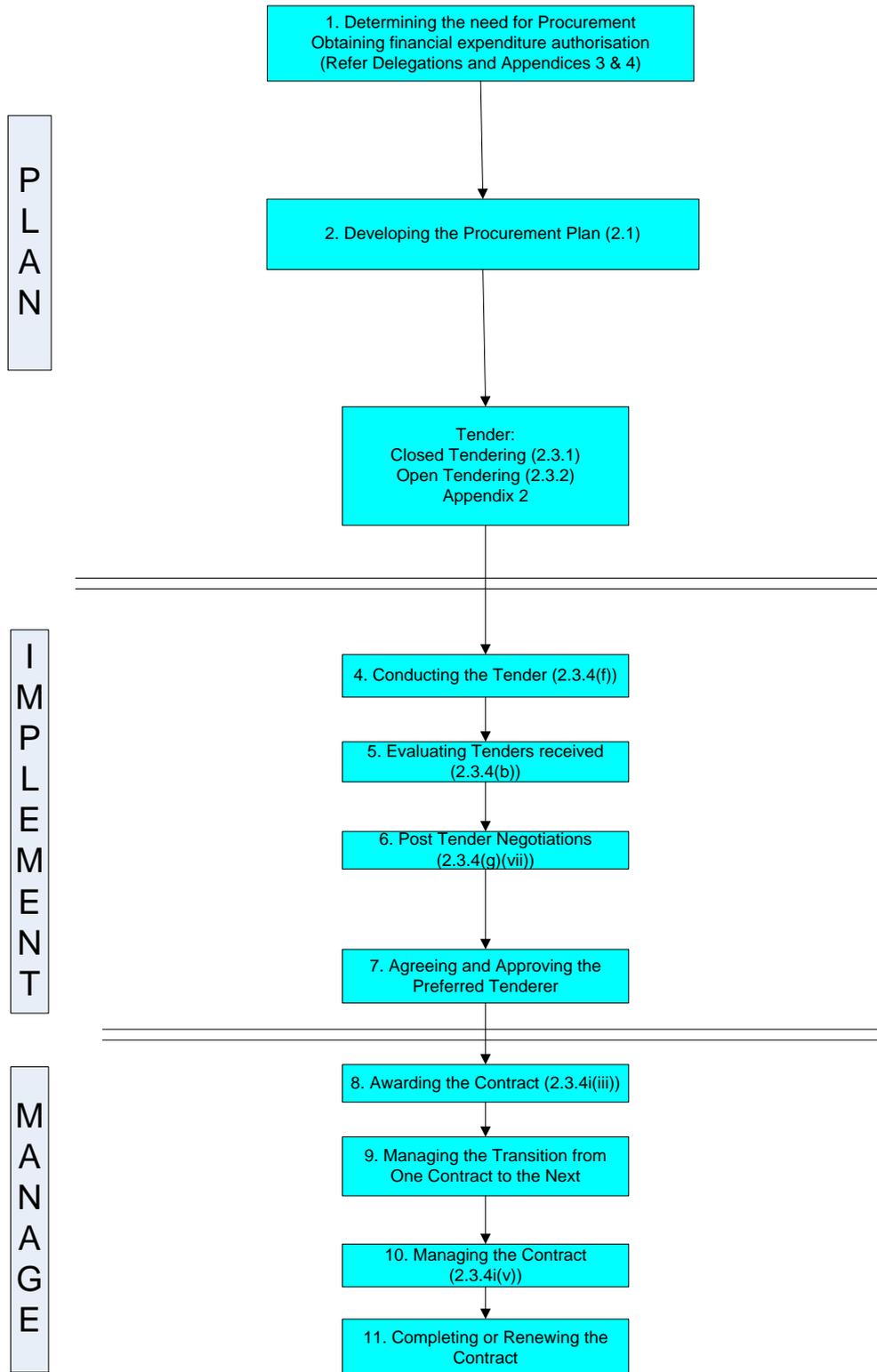
8. Approval Dates:

This version takes effect from: [1 October 2008]
These guidelines will be reviewed by: [30 September 2010]

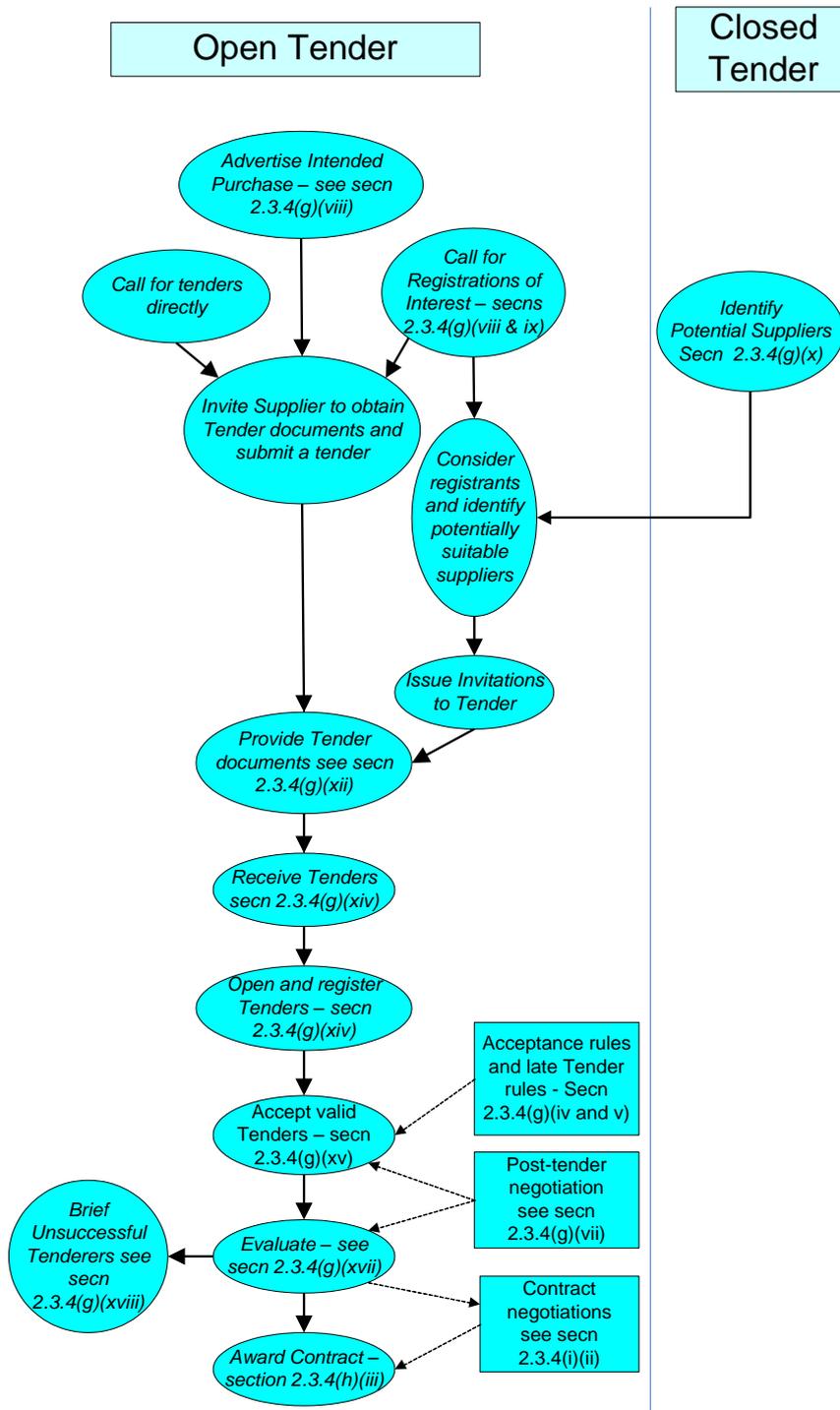
9. Contact Person:

The Procurement & Insurance Manager may be contacted on a routine basis in relation to these procedures:

Appendix 1 – Overview of the procurement process

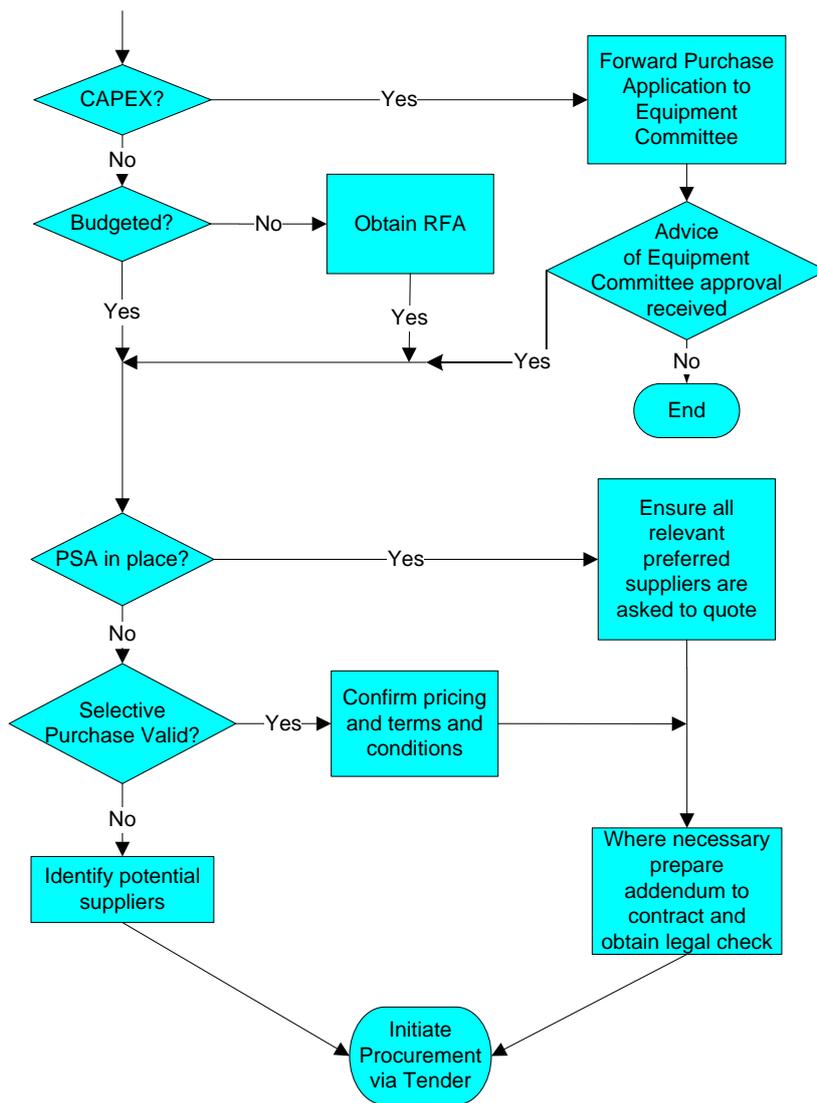


Appendix 2 – Overview of Tender Process



Appendix 3

Process Steps for Purchases of OPEX or Equipment between \$100,000 and \$500,000



Process Steps:

If CAPEX (Capital Expenditure)

- Prepare a Short Form Business Case justifying the purchase;
- Either
 - a. Present for consideration to the Equipment Committee in the annual CAPEX budget round; or
 - b. For out of cycle requests (eg. expenditure from research funds or from departmental reserves) send via Equipment Committee. When approval granted complete a Request for Financial Authority (RFA) and forward to Director of Finance Operations.
- Modify requirements to fit approved CAPEX.

If OPEX (Operating Expenditure)

- Ensure budget is available;
- If not budgeted then an RFA must be obtained;
- Develop proposal justifying the purchase;

THEN for CAPEX or OPEX

- As the procurement is likely to be greater than \$100,000, then conduct a formal tender process.
- Is there a Preferred Supplier Agreement (PSA) in place, and if so, is there more than one of these suppliers capable of fulfilling the contract? If so, ensure that all provide quotations.
- Determine if a selective purchase is valid – are these the only suppliers that can fulfil this contract;
- Identify pre-qualified suppliers & confirm pricing, terms & conditions;
- Ensure that person with appropriate Financial Delegated Authority (FDA) approves the purchase.

THEN

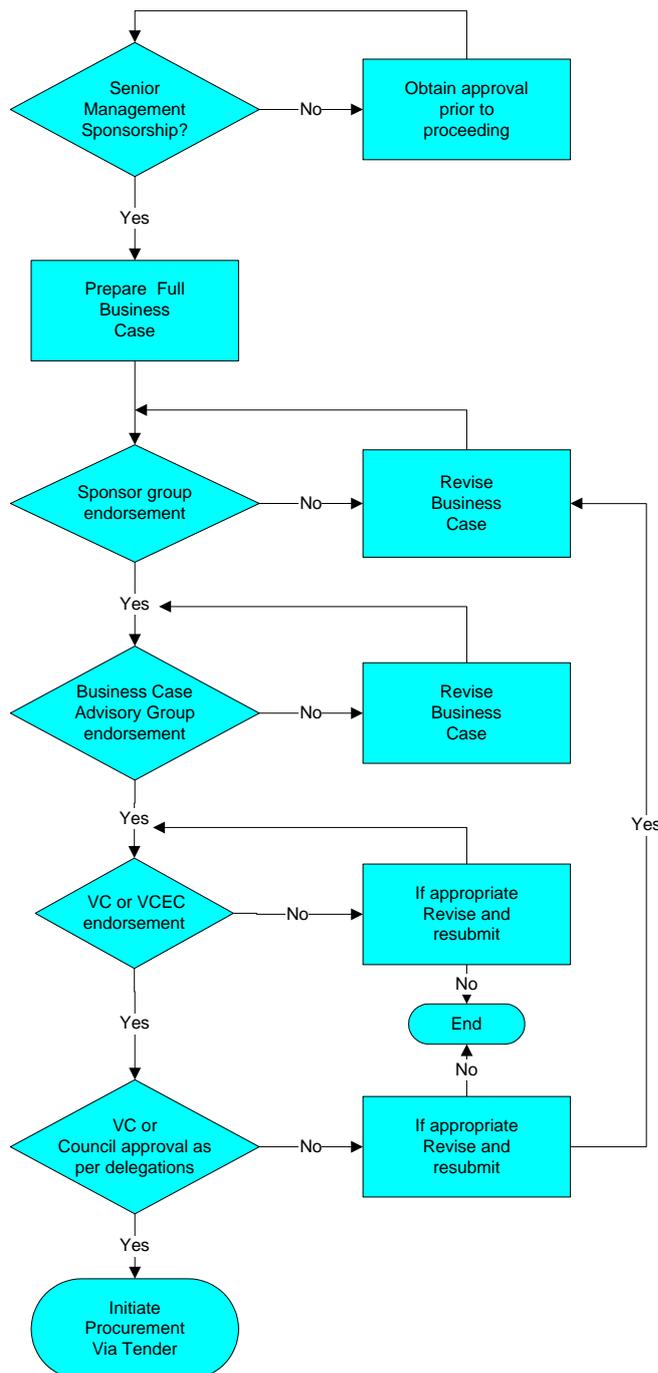
- Develop a contract, if necessary and/or amend existing contract;
- Complete Purchase Order via Mass-e-Mall;
- Where necessary obtain authorisation from person with appropriate FDA level;
- Carry out purchase.

Other Information:

- Must use preferred supplier or pre-qualified suppliers if they exist;

Appendix 4

Process Steps for Building Works or for other Purchases over \$500,000



Process Steps:

- Has the project received Senior Management approval?
- Is the project aligned with the latest Long Term Capital Plan?
- Has a feasibility study been conducted?
- Development of a Project proposal including a full Business Case located at <http://policyguide.massey.ac.nz> in the “Related Documents” section
- Review of Project proposal and Business Case by Sponsor Group and receive their endorsement;
- Review and approval of the Business Case by the Business Case Advisory Group;
- Receive Sponsor Group approval;
- Approval for the procurement by VCEC;
- Approval of procurement by University Council;

THEN EITHER

- If this is a building project, forward details to the University’s consultants to enable them to conduct Tender on our behalf;

OR FOR OTHER PROCUREMENT

- Go to the process for conducting a tender.

A strong business case includes all of the following elements:

- A brief, compelling, service-oriented problem statement
- A mission statement or vision of the future that addresses the problem
- A description of the specific objectives to be achieved
- A description and rationale for your preferred approach
- A statement of the benefits that address the concerns of all relevant stakeholders

- Measures for gauging improved performance or progress toward each objective
- A statement of the likely risks of your initiative and how they will be addressed
- A basic plan of work with a timeline and key milestones
- A project management plan and names and roles of key managers
- Alternatives considered and how they would or would not work
- Cost estimates and potential sources of funding
- Opposing arguments and your responses to them

Appendix 5. Safety responsibilities in procurement, design, manufacture, and supply.

6.1 Procurement - Identification of hazards--

Every employer shall ensure that there are in place effective methods for--

- (a) Systematically identifying existing hazards to employees at work; and
- (b) Systematically identifying (if possible before, and otherwise as, they arise) new hazards to employees at work; and
- (c) Regularly assessing each hazard identified, and determining whether or not it is a significant hazard.

(Section 7, Health and Safety in Employment Act 1992)

6.2 Supply - Duties of persons selling or supplying plant for use in place of work

(1) A person who hires, leases, or loans to another person plant that can be used in a place of work must—

- (a) ascertain from the other person (so far as is practicable) before hiring, leasing, or loaning the plant—
 - (i) whether the plant is to be used in a place of work; and
 - (ii) if so, the intended use of the plant; and
- (b) if he or she ascertains that it is to be used in a place of work, take all practicable steps to ensure that the plant is designed and made, and has been maintained, so that it is safe for its intended use.

(2) A person who sells or supplies (other than in a situation covered by subsection (1)) to another person plant that can be used in a place of work must take all practicable steps to ensure that the plant is designed and made, and has been maintained, so that it is safe for any known intended use or any use of that plant that the person could reasonably expect.

(3) In addition to the other obligations in this section, if a person who hires, leases, sells, or otherwise supplies to another person plant to be used in a place of work agrees to install or arrange the plant, the person must take all practicable steps to install or arrange the plant so that it is safe for its intended use.

(4) This section does not apply to the sale of plant, whether or not in trade, if the plant—

- (a) is secondhand; and
- (b) is sold “as is”.

(5) In subsection (4(b), “as is” means that the plant is sold without any representations or warranties about its quality, durability, or fitness, and with the entire risk in those respects to be borne by the buyer.

(6) This section does not limit the Consumer Guarantees Act 1993.
(Section 18A, Health and Safety in Employment Act 1992)

6.3 Design - Duties of designers of plant—

(1) Every designer of plant shall take all practicable steps—

- (a) To design any plant in accordance with applicable ergonomic principles, including (without limitation) any such principles in relation to the placement of any power control; and
- (b) To design any plant in such a way that, if the plant is—
 - (i) Manufactured in accordance with the design; and
 - (ii) Used for the purpose for which it was designed; and
 - (iii) Installed, adjusted, used, cleaned, maintained, repaired, and dismantled in accordance with the designer's instructions, -
there is no likelihood that the plant will be a cause or source of harm to any person, or the likelihood that the plant will be such a cause or source of harm is minimised as far as is practicable

(2) Every designer of plant shall take all practicable steps to ensure that every manufacturer of the plant receives comprehensive and comprehensible information, including, where relevant, detailed instructions, about—

- (a) The use for which the plant has been designed; and

- (b) How to install, adjust, use, clean, maintain, repair, and dismantle the plant in accordance with the designer's instructions; and
- (c) Any other matters about which the manufacturer needs information from the designer in order to be able to carry out the manufacturer's duties under regulation [67](#) of these regulations.
(*Regulation 66 Health and Safety in Employment regulations 1995*)

6.4 Duties of manufacturers and suppliers of plant-

- (1) Every manufacturer and supplier of plant shall take all practicable steps to ensure that any plant manufactured by that manufacturer or supplied by that supplier is so designed that, if the plant is—
 - (a) Manufactured in accordance with the design; and
 - (b) Used for the purpose for which it was designed; and
 - (c) Installed, adjusted, used, cleaned, maintained, repaired, and dismantled in accordance with the designer's instructions,—
there is no likelihood that the plant will be a cause or source of harm to any person, or the likelihood that the plant will be such a cause or source of harm is minimised as far as is practicable.
- (2) Every manufacturer and supplier of plant shall take all practicable steps to ensure that any plant manufactured by that manufacturer or supplied by that supplier is so manufactured and tested that, if the plant is—
 - (a) Used for the purpose for which it was designed; and
 - (b) Installed, adjusted, used, cleaned, maintained, repaired, and dismantled in accordance with the designer's instructions,—
there is no likelihood that the plant will be a cause or source of harm to any person, or the likelihood that the plant will be such a cause or source of harm is minimised as far as is practicable.
- (3) Every manufacturer of plant shall take all practicable steps to ensure that every supplier of the plant receives comprehensive and comprehensible information, including, where relevant, detailed instructions, about—
 - (a) The use for which the plant has been designed; and
 - (b) How to install, adjust, use, clean, maintain, repair, and dismantle the plant in accordance with the designer's instructions; and
 - (c) Any other matters about which the supplier needs information from the manufacturer in order to be able to carry out any duty of the supplier under this regulation.
- (4) Every supplier of plant shall take all practicable steps to ensure that every purchaser or hirer of the plant receives comprehensive and comprehensible information, including, where relevant, detailed instructions, about—
 - (a) The use for which the plant has been designed; and
 - (b) How to install, adjust, use, clean, maintain, repair, and dismantle the plant in accordance with the designer's instructions; and
 - (c) Any other matters about which the purchaser or hirer needs information from the supplier in order to be able to carry out any duty of the purchaser or hirer under the Act or these regulations
(*Regulation 67 Health and Safety in Employment Regulations 1995*)

Appendix 6.

Definitions:

For purposes of these procedures, unless otherwise stated, the following definitions shall apply:

Business Justification Paper (BJP)	A document that is completed either prior to the renewal of a Preferred Supplier Agreement or period contract, or when expenditure by the University is obligatory or after an emergency purchase has been made. A completed business justification paper provides sufficient information on which the appropriate person can base approval of the expenditure. The paper contains information outlining the specification of what is to be purchased or supplied, the reasons for not going to tender and/or why the expenditure is obligatory and/or why an emergency purchase was justified.
Capital Expenditure (CAPEX)	Costs or expenditure incurred by the University that will be used by the University over a period of time, normally beyond 12 months. The costs are usually for the acquisition or creation of a physical item (asset) including costs directly attributable to bringing the item to working order. The costs are normally written off periodically, over the useful life of the asset, to account for the consumption or loss of economic benefits. The write-off is known as depreciation or amortisation
Closed Tender	A tender process where only selected suppliers are invited to respond.
Full Business Case (FBC)	A document that details the specification of what is to be purchased, the budget it is to be coded to and the financial analysis that supports the decision to purchase. The full business case is prepared for purchases in excess of \$500,000 and is presented to the Business Case Advisory Board for endorsement. The template for this can be located at http://policyguide.massey.ac.nz in the "Contract Templates" section.
Open Tender	A tender process in which the invitation to tender is advertised so all interested suppliers may respond.
Operating Expenditure (OPEX)	Costs or expenditure incurred by the University that are utilised in the day to day operations of the University and are generally consumed immediately or within a short period of time.
Plant	Plant that is to be used or is used in a place of work (<i>Health and Safety in Employment Regulations 1995</i>) "Plant" includes-- (a) Appliance, equipment, fitting, furniture, implement, machine, machinery, tool, and vehicle; and (b) Part of any plant, the controls of any plant, and any thing connected to any plant: (<i>Health and Safety in Employment Act 1992</i>)
Preferred Agreement (PSA)	Supplier A contract for supply of particular goods or services, where the contract has been let after a competitive tender process. A Preferred Supplier Agreement (PSA), with price and delivery conditions agreed, will be considered by the University if the aggregated procurement spend across campuses for the goods or services is estimated to be greater than \$100,000 per annum and will be entered into where it is evident that a PSA will be advantageous in terms of quality, timeliness and/or price. A PSA differs from a bulk purchasing agreement in that the purchases will be made periodically as required.
Pre-Qualified Supplier	Procurement is selective or pre-qualified when it is made from a supplier without having invited competing quotes from any other supplier and is an acceptable procurement method for purchases under \$10,000. Refer to Section 2.4.

Request for information (RFI)	An invitation to selected or interested parties to provide information about possible solutions for the provision of a particular service or particular goods. An RFI may be used to assist in the decision making process for potential expenditure on assets or services, where the University is researching the options available.
Request for Proposal (RFP)	An invitation to selected or interested parties to present their proposals (deliverables, cost, time) for meeting a need that the University has identified for specified assets or services. An RFP will be used when there may be flexibility in the solution provision.
Request for Quotation (RFQ)	An invitation to selected or interested parties to furnish a quote of price and time for the provision of specified assets or services to the University. An RFQ will be used when the goods or services are clearly specified and there is little or no flexibility available in the solution, e.g. off the shelf hardware or software, standard furniture items.
Request for Tender (RFT)	An invitation to selected or interested parties to present their proposals (deliverables, cost, time) for meeting a need that the University has identified for specified assets or services.
Short Form Business Case (SFBC)	A document that details the specification of what is to be purchased, the budget it is to be coded to and the financial analysis that supports the decision to purchase. The short form business case is prepared for purchases between \$100,000 and \$500,000 and is presented to the Budget Centre Manager who will complete a Request for Financial Authority. This template for this can be located at http://policyguide.massey.ac.nz in the "Contract Templates" section.
Single Supplier	A single supplier is one with whom the University has negotiated an exclusive procurement contract such that all of the University's procurement of a particular good or service will be provided by the supplier. Eg. Natural gas, electricity, travel, stationery, etc.
Tender	Selection of a supplier using a competitive process that is rigorously conducted to ensure integrity of the process and the outcome.
Total Cost of Ownership (TCO)	A concept which ensures that all components and impacts of a purchase or project across its expected life are budgeted for in the purchase request. The TCO should be identified in the business case or business justification paper and may include the cost of carrying out the purchase (development of business case, tender process), costs of housing the purchased goods; operating, maintaining and upgrading the purchased goods; any associated service contract; any financial impact on another Budget Centre and the Post Implementation Review costs.
University Purchasing Officer	A list of current University Purchasing Officers is attached in Appendix 8.
Whole of Life Costs	Encompasses all the costs (private & social) that accrue to the initiation, provision, operation, maintenance, servicing and decommissioning, over the useful life of the service or product procured.

Appendix 7

EVALUATION OF OFFERS

EVALUATION MODELS

The evaluation model is the model used to assess competing suppliers' offers. The type of evaluation model selected impacts on the content of the Request for Offers (RFx) document. The decision on the evaluation model is therefore made as part of the planning phase.

Commonly used evaluation models in procurement include:

- Lowest Price Conforming
- Weighted Attribute
- Target Price

Lowest Price Conforming

The Lowest Price Conforming (LPC) model is the most basic model and has the strongest emphasis on price. Using this model, the lowest-priced offer is selected once a prerequisite level of quality is met.

It is applicable where quality over and above the minimum threshold is not important (i.e. it does not offer greater value for money).

The theory behind the LPC method of evaluation is that the contract is won by the supplier that has the most efficient systems and working methods, the best equipment and the most skilled staff, which then enables it to carry out the job to the required quality at the lowest cost. In reality this may not be true, with the possibility that the supplier misunderstood the tender documents and what was required, or deliberately priced low with the intention of submitting additional claims or renegotiating the scope of work.

Example:

The LPC model might be applicable for the evaluation of quotes where suppliers have priced against a clearly prescribed specification, for example the installation of data cabling in a new floor fit-out, or the supply of some standard, commercial, off the-shelf hardware.

Weighted Attribute

The Weighted Attribute model is the most common model used in New Zealand public sector procurement. This model seeks to balance the trade-off between price and quality. It can be used for goods or services.

Under this model the attributes (criteria) are weighted to reflect their relative importance. (refer to *Criteria Weighting*). For each supplier the criteria are scored, and each score is multiplied by the relevant weighting to give a weighted score. The weighted scores for each offer are added up to find the highest-scoring supplier.

Some Weighted Attribute models weight all the evaluation criteria, including price, while others only weight the non-price criteria.

When weighting price, the model requires a formula to convert the price into a score.

One formula used is:

**Score = 5 + 100 x (Median Conforming Offer Price – Offer Price)
(Median Conforming Offer Price)**

where the price score may be negative but shall not be greater than 10.

The formula means that:

- the median price receives a score of 5 (the median is simply the middle price of those prices received)
- an offer price that is higher than the median price receives a score of less than 5, while an offer price below the median price receives a score of more than 5
- offer prices that significantly exceed the median receive a negative score (this is considered appropriate and the score is carried through to the calculation of the overall weighted score for the supplier)
- a cap of 10 helps prevent suppliers achieving an extremely high score by tendering an unrealistically low price

When weighting price, you are required to carry out some level of sensitivity analysis when establishing the weights to ensure they are appropriate. If the price weighting is too high,

the evaluation effectively becomes lowest-price conforming. Conversely if the price weighting is too low, the best value-for-money solution won't rise to the top. If price is not being weighted, you will need to have a defined process for bringing the non-price score and the pricing together to determine an overall value-for-money ranking. This is commonly achieved through a narrative assessment of the relative price and non-price components.

Target Price

This model is useful when it is difficult to define the scope of the work in Requests for Proposal (RFPs)/Requests for Tender (RFTs). Examples of where this model might be used include reviews, investigations and studies.

By using a Weighted Attribute model for these examples, the agency is likely to be presented with a range of offers and prices that are not easily compared, and of which many may exceed the available budget. The solution in these cases is for the agency to make the suppliers aware of the available budget (the "Target Price") as a guide for defining the scope of services desired, then inviting suppliers to specify what they can do for that price. The Target Price model can also be used in general services' procurements where the available budget is the key constraint.

The main advantages of the Target Price model are:

- the university procures the best value for the money available
- suppliers do not waste their time tendering for work that is too large or too small for them
- suppliers can develop their solution in an informed manner (i.e. with knowledge of one of the key constraints/criteria)

From the university's perspective, the main risk with the Target Price model is that they must be sure they cannot get the activity completed with the required expertise and to the required level of detail at a price lower than the specified budget – otherwise they are wasting money.

Example

The Target Price model would be appropriate where the university has a fixed budget available for a refresh of its web site, and recognises the available budget will not cover all the desired changes. Using the Target Price model, the agency specifies the available budget in the RFP document and invites suppliers to submit proposals describing what they could provide for the available budget.

CRITERIA WEIGHTING

In very few cases are all of the criteria in an evaluation equal. Therefore in the majority of procurements there is a requirement to use some form of weighting to reflect the relative importance of individual evaluation criteria.

WEIGHTING PRACTICE

High weightings are not placed on criteria every supplier can meet.

It is considered good practice to highlight mandatory criteria as part of the university's specification or statement of work. This ensures suppliers that are not able to meet the mandatory requirement do not waste either the university's or their own time in submitting a response.

Evaluation criteria and weightings are normally developed and approved prior to the RFX being issued. At a minimum they are developed and approved before the offer closing date.

SCORING MODELS

Scoring models with appropriate narrative descriptors are used for ensuring evaluations are scored in a consistent manner.

- For weighted criteria, a scoring scale of 0-10 is most commonly used.
- For mandatory criteria "yes/no" or "pass/fail" scoring is usually used. Numerical scoring of mandatory criteria usually involves a 0 for a fail and a 10 for a pass.

THE EVALUATION PROCESS

The evaluation process will generally follow the following steps:

- Evaluation team members complete conflict-of-interest declarations
- Evaluation team members are briefed on the evaluation process and receive training if necessary.
- Copies of the suppliers' offers, scoring scale and evaluation forms are distributed to each evaluation team member.

- Note: If a two-envelope method is being used (i.e. price has been requested in separate, sealed envelopes) only the non-price parts of the offers are distributed to the evaluation team members, with the price envelopes remaining unopened and securely stored
- Evaluation team members complete individual assessments of the suppliers' offers. This ensures each evaluation team member has adequately reviewed the offers prior to the team evaluation meeting and that no single team member is able to exert inappropriate influence on the outcome by being better prepared.
- Note: In some simple evaluations, such as the evaluation of quotes using the LPC method, it may not be necessary for the evaluation team members to complete individual evaluations. In these cases the evaluation team will just meet and complete a team evaluation
- The evaluation team members meet and complete a "team" evaluation. Team scores may be reached by a number of methods, with averaging the individual scores and reaching a team consensus score being the two most common. Of the two, the consensus scoring method is the most frequently used, as it allows a score to be agreed based on consideration of all the evaluation team members' opinions and observations. The averaging method does ensure a persuasive or dominant individual is not able to exercise undue influence. However, it also means an individual's scores that, based on reconsideration of the supplier response in light of other team members' comments would have been higher or lower, still form part of the calculation for a final score
- If price has been requested in separate, sealed envelopes, these envelopes are opened after the team scoring of the non-price criteria and a ranking agreed by the evaluation team. The ranking method will be determined by the evaluation model used. For example:
 - using LPC, the lowest-priced conforming offer is automatically the preferred supplier
 - using Target Price (where all offers are made against a specified budget) the highest-scoring supplier based on an assessment of the non-price criteria is the preferred supplier
 - using Weighted Attribute, the highest-ranked offer is based on an assessment of which offer provides the best value for money. If price was weighted, this is calculated by summing the weighted scores for both the price and non-price criteria and the highest-scoring offer is the preferred supplier
- In some cases the two or three top-ranked suppliers are shortlisted and asked to provide presentations on their offers. As the presentations are still part of the evaluation process, they remain quite structured to ensure suppliers are treated equally. This means the suppliers are provided with the same notice period to prepare for the presentation and the same length of time for the presentation, etc. Following the presentations the scores of those suppliers are reviewed and the final ranking agreed
- referee-checking or further due diligence is carried out if the preferred supplier is not well known to the university. The purpose of the reference-checking is to verify the assessed level of performance, capability or expertise and to satisfy the university generally that the supplier is likely to deliver what it has offered. Further due diligence, such as financial viability checks, is generally only conducted where the procurement is high risk, high profile or high

EXPRESSIONS OF INTEREST (EOI)/REGISTRATIONS OF INTEREST (ROI) EVALUATION

The evaluation process for an EOI/ROI is generally the same as outlined above, except the process is complete once a shortlist has been established:

- evaluation team members complete conflict-of-interest declarations
- evaluation team members are briefed on the evaluation process and receive training if necessary
- copies of the suppliers' responses, scoring scale and evaluation forms are distributed to each evaluation team member
- evaluation team members complete individual assessments of the suppliers' responses
- the evaluation team members meet and complete a "team" evaluation. Team scores may be reached by averaging the individual scores or reaching a team consensus score
- suppliers that meet all specified mandatory requirements are ranked in order and a shortlist based on the top-ranked suppliers is developed

As a general rule, no more than three or four suppliers are shortlisted and invited to submit full proposals/tenders.

Where it is clear from the EOI/ROI that a supplier does not have the experience, capability or capacity, it is not shortlisted. In the event the EOI/ROI evaluation finds that only one supplier has the requisite capability, capacity or experience, the project normally proceeds as a selective (sole source) procurement.

At the end of the EOI/ROI evaluation process, the university advises the shortlisted suppliers they have been shortlisted. Those who have not been shortlisted are advised accordingly and offered the opportunity for a debrief.

Appendix 8**University Purchasing Officers.**

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