

Procurement Policy

ISSUE DETAILS

Effective Date:	1 June 2011
Policy Owner:	Chief Executive Officer
Written By:	Manager, Sourcing Supply and Contracts, Grid Projects
Approved By:	Transpower Board of Directors Minute Number: 10.1.1 Board Paper Number: 10 Board Meeting Date: 20 May 2011
Revision Authority:	The Chief Executive has authority to approve minor (but not material) revisions or amendments without the requirement for repeat approval.
Review Frequency:	Two Yearly
Review Date:	1 June 2013

TRANSPOWER APPROVED CORPORATE POLICY

This Policy was implemented: 1 June 2011

CONTENTS

1.	INTRODUCTION	3
2.	COMPLIANCE REQUIREMENT REFERENCES	3
3.	KEYWORDS	4
4.	MANDATORY COVERAGE OF THIS POLICY	4
5.	EXCLUSIONS AND EXCEPTIONS TO MANDATORY COVERAGE	5
6.	GENERAL APPROACH TO PROCUREMENT	5
7.	PROCUREMENT METHODS	6
8.	OPEN TENDER PROCEDURES	6
9.	AWARDING OF CONTRACTS	8
10.	PRE-QUALIFIED SUPPLIERS	8
11.	TECHNICAL SPECIFICATIONS	9
12.	SUPPLIER COMPLAINTS	9
13.	ANNUAL PROCUREMENT PLANS	9
14.	PROCUREMENT PROCESS RECORDS TO BE KEPT	9
15.	MONITORING COMPLIANCE WITH THIS POLICY	10
APPENDIX 1: EXEMPTIONS AND EXCLUSIONS FROM THIS POLICY		11

1. INTRODUCTION

- 1.1 This policy sets out mandatory standards for the conduct of procurement of goods and services by Transpower New Zealand Limited (“Transpower”).
- 1.2 This policy, available for public information on Transpower’s Website, is intended to meet Transpower’s obligations as a State Owned Enterprise, and to meet the intent of the government’s and the Office of the Auditor-General’s expectations for procurement by state owned enterprises such as Transpower.

2. COMPLIANCE REQUIREMENT REFERENCES

2.1 **Compliance with Law:**

This policy has the following legislative compliance requirements:

Commerce Act 1986
Dumping and Countervailing Duties Act 1988
Electronic Transactions Act 2002
Fair Trading Act 1986
Human Right Act 1993
Limitations Act 1950
Official Information Act 1982
Ombudsman Act 1975
Public Audit Act 2001
Public Records Act 2005
State Owned Enterprises Act 1986.

2.2 **Compliance with International Agreements:**

This policy takes into account New Zealand’s trade policy interests in open and transparent government **procurement** markets. (refer to the [Ministry of Economic Development web site](#))

2.3 **Government Policies and Guidelines:**

This policy takes into account the following government policies and external documents:

- *Procurement guidance for public entities* (OAG document, June 2008)
- *Government Procurement in New Zealand: Policy Guide for Purchasers* (MED document, August 2007 edition)
- *Mandatory Rules For Procurement By Departments (Endorsed by Cabinet 18/04/06)*
- **Government Electronic Tender Service (“GETS”)**
- *Principles of Best Practice: Construction Procurement in New Zealand* (NZ Construction Industry Council document, January 2006)
- *Guidelines for Managing and Monitoring Major IT Projects* (State Services Commission and Treasury document, 2001)

2.4 **Corporate Policies**

Procurement activities will be conducted in accordance with Transpower’s policies as well as with standards of behaviour that are specified and/or implied in the following Corporate Policies

- Code of Ethics and Conduct
- Compliance Policy
- Delegated Authority Policy
- Discretionary Expenditure, Gifts and Travel Policy
- External Communications Policy



- Privacy Policy
- Safety and Health Policy
- Treasury Policy

2.5 Defined Terms Used in this Policy:

The following defined terms are used in this policy:

- **Government Electronic Tender Service (GETS)** is a government website (www.gets.govt.nz) that provides information about New Zealand Government business opportunities.
- **Least Cost** means demonstrating the most appropriate technical solution to safely meet specified performance criteria, delivered within the time required at the lowest whole of life cost for a 'good' or 'service'. It provides the right technical solution at the right time at the lowest overall cost to customers.
- **Procurement** is all the business processes associated with purchasing, spanning the whole cycle from the identification of needs to the end of a service contract or the end of the useful life and subsequent disposal of an asset.
- **Registrations and Expressions of Interest (ROI/EOI)** are used to identify suppliers interested in, and capable of, delivering the required goods or services. Potential suppliers are asked to provide information on their capability to do the work.
- **Requests for Proposals and/or Tenders (RFP/RFT)** are a formal means of seeking proposals from the market for goods or services.
- **Value Proposition** means using resources effectively, economically, and without waste, with due regard for the total costs and benefits of an arrangement, and its contribution to the outcomes the entity is trying to achieve. In addition, the principle of the **Value Proposition** when procuring goods or services does not necessarily mean selecting the lowest price but rather the best possible outcome for the total cost of ownership (or whole-of-life cost). The **Value Proposition** is achieved by selecting the most appropriate **procurement** method for the risk and value of the **procurement**, and not necessarily by using a competitive tender.

3. KEYWORDS

Buying	Preferred Supplier
Conduct	Procurement
Conflict of Interest	Purchasing
Contestability	Request for Information
Ethics	Request for Proposal
Expression of Interest	Request for Tender
Fairness	Supplier
Goods and Services	Tender
Least Cost	Tender Evaluation
Market Power	Value Proposition

4. MANDATORY COVERAGE OF THIS POLICY

4.1 Procurement Subject to Policy: Subject to section 6 of this policy, this policy must be applied to any Transpower **procurement** of goods and services which is made by any contractual means (including purchase and rental or lease with or without an option to buy, build-operate-transfer contracts accessed via third party commercial supply brokerage arrangements) with contract values at or above the threshold of NZ\$500,000 (excluding GST).

4.2 **Contract Values:** For the purpose of determining whether contract values are at or above the threshold in subsection 4.1, value is to be based on the maximum total estimated value of the **procurement** over its entire expected duration. The entire duration includes both the initial term of the contract and any provisions for additional items or time extensions which Transpower may be obliged to enter into. This includes optional **procurements**, premiums, fees, commissions, interest and any other revenue streams that may be provided for in the contract. All forms of remuneration including payments to an agent or supply broker must be declared in the contract. The basis for assessment of value should be “reasonable and honest” based on the best available knowledge known at the time.

5. EXCLUSIONS AND EXCEPTIONS TO MANDATORY COVERAGE

5.1 Mandatory coverage of this policy is further defined and limited by the Exclusions and Exceptions listed in **Appendix 1**. Exceptions must not be used solely for the purposes of avoiding competition.

5.2 *Direct or Selective Procurement*

5.2.1 A direct or selective **procurement** is permitted for purchases above the threshold in subsection 4.1, if an appropriate element within **Appendix 1** is identified.

6. GENERAL APPROACH TO PROCUREMENT

6.1 **Integrity in Procurement Process:** Transpower maintains processes and procedures to manage any potential conflict of interest on the part of those engaged in or having influence over a particular **procurement**.

6.2 **Non-Disclosure of Confidential Information:** Transpower does not, except to the extent required by law (including the Official Information Act), disclose confidential information that would prejudice legitimate commercial interests of a particular supplier, or which might prejudice fair competition between suppliers, without written authorisation from the supplier that provided the information.

6.3 **Non-Discrimination:** Transpower accords all potential suppliers an equal opportunity and equitable treatment on the basis of their financial, technical and commercial capacity. Potential tenderers, if requested, that cannot submit proof, which may include an independent verification of their compliance with minimum standards established in Transpower’s qualification documents or a solvency declaration, will be rejected.

6.4 **Origin of Suppliers Not Relevant:** Transpower does not make **procurement** decisions on the basis of place of origin or the degree of foreign ownership or affiliation of the supplier.

6.5 **Offsets Not Allowed:** Transpower does not allow any offsets (e.g. conditions or undertakings relating to domestic content, licensing of technology, investment or counter-trade) at any stage of **procurement**.

6.6 **Probity Assurance Advisor:** A probity assurance advisor may be appointed by Transpower at its discretion for any **procurement** process.

6.7 **Non-Avoidance of Policy:** The procurement process must not be prepared, designed or otherwise structured or divided at any stage in order to circumvent the application of this policy. Use of a third party as an agent or consultant (not being the prime contractor) to advise on, arrange or manage a **procurement** process does not remove the requirement to comply with this policy or to observe the same ethical standards, principles, and behaviour that apply to Transpower.

6.8 **Conflict of interest Declarations:** [Conflict of interest declarations](#) shall be completed by persons having involvement with a procurement (e.g. Project Advisory Team, Tender Evaluation Team, Project Managers, Commercial Managers, DA Holder etc.) and these shall be kept with the tender records.



6.9 Storage of Contracts

Once a contract has been entered into, a copy of the contract document must be stored in Transpower's contract management system (CMS).

7. PROCUREMENT METHODS

7.1 The **procurement** of any goods and services subject to this policy (i.e. with a value at or above the threshold specified in Section 5, above) is normally to be conducted by way of the open tender procedures set out in section 9 of this policy. However, exceptions to open tendering are set out in **Appendix 1** of this policy and may be used as long as they are not being used to avoid competition. Any decisions made to use any exceptions should be supported by a properly developed business case and market research to reveal those suppliers that have the appropriate level of skill to provide the goods or services.

8. OPEN TENDER PROCEDURES

8.1 **Open Tender Procurement:** This section applies to the **procurement** of any goods and services to be conducted by way of the open tender procedures by which any interested supplier may submit a tender or apply to meet conditions for participation in a **procurement** process (e.g. any registration, qualification or other pre-requisites that interested suppliers must meet in order to participate in a **procurement** process such as to be invited to tender).

8.2 **Publication of Notice of Open Tender Procurement:** A notice that procurement is to be conducted by way of open tendering procedures is to be published both on Transpower's website and on the **GETS** website and, where appropriate, in specified national publications stipulated in any **procurement** plan inviting interested suppliers to submit a tender or apply to meet conditions of participation in the **procurement** process. The notice must be accessible on Transpower's Website and on the **GETS** website during the entire period that is established for tendering or submission of an application.

8.3 **Contents of Notices of Intended Procurement:** The information on notices of intended **procurement** must include:

- A description of the intended **procurement**;
- Any conditions that suppliers must fulfil to participate in the **procurement** process;
- The time limits for submission of tenders or applications to participate; and
- Contact details for obtaining of all relevant documents.

8.4 **Publication of Annual Procurement Plan:** An Annual Procurement plan may be published. If an Annual Plan is published, it must be in accordance with the requirements set out in section 14, and sufficiently in advance of any **procurement** to provide all interested suppliers with a reasonable period of time in light of the nature, circumstances and complexity of the **procurement**.

8.5 **10 Business Days Notice to be Absolute Minimum:** The time provided between the date of publication of the notice of intended procurement and the final date for submission of tenders, or for applications to participate, must be no less than ten business days.

8.6 **Tender Documentation Requirements:** Tender documentation must contain all information that is necessary for potential suppliers to prepare and submit responsive tenders. This includes the essential requirements to verify that tenders meet qualification requirements.

8.7 **Tender Documentation Access:** Either:

- Direct access to the entire tender documentation and any supporting material by electronic means must be offered; or



- Physical copies of the tender documentation must be made available promptly at the request of a supplier who is invited to submit a tender.
- 8.8 **Further information Requests:** Any reasonable request for explanation or for relevant information that is made by a prospective tenderer must endeavour to be replied to promptly, provided that the provision of such information does not give that supplier an advantage over its competitors in the procedure for the award of the contract. Accordingly, the information or explanation that is provided to a supplier will be provided to all other suppliers that are invited to tender subject to confidentiality of the information or explanation being preserved.
- 8.9 **Modification of Essential Requirements:** Where, during the course of a procurement process, the essential requirements and/or evaluation criteria in the tender documentation are modified, and then it must be ensured that such modifications are published (as required above) or transmitted in writing to all suppliers who have requested the original tender documentation. This must be done at the time the criteria are modified, and should be in same manner as the original information was transmitted, and in adequate time to allow suppliers to modify and resubmit their tenders as appropriate.
- 8.10 **Conditions for Participation in a Procurement Process:** Publication (as required above) inviting suppliers to apply to satisfy conditions for participation in an intended procurement process must be sufficiently in advance for interested suppliers to prepare and submit responsive applications. Time for the evaluation and determinations based on such applications to be made must be allowed.
- 8.11 **Process if Supplier Not Yet Registered or Qualified:** Requests from suppliers that seek participation in an open tendering process, but are not yet registered or pre-qualified, must be considered, provided that there is sufficient time to complete the registration and/or qualification procedures before the award of the contract.
- 8.12 **Essential Conditions Only to be Imposed on Supplier:** Any conditions for participation, including financial guarantees, technical qualifications and information necessary for establishing the financial, commercial and technical capacity of suppliers, as well as the verification of qualifications, must be limited to those that are considered to be essential to ensure the contractor's capability to fulfil the contract in question.
- 8.13 **Criteria to be Established to Judge Capacity of Supplier:** Criteria must be established to enable the financial, commercial and technical capacity of a supplier to be determined on the basis of both that supplier's global business activity and its New Zealand business activity, taking due account of the legal relationship between the supply organisations (e.g. in assessing resources that are available to the supplier) before publication of the tender.
- 8.14 **Exclusion if Supplier Bankrupt or Receivership:** Transpower may in its sole discretion exclude a supplier from a **procurement** process on the grounds of insolvency, bankruptcy, receivership, liquidation, false declarations or significant deficiency in performance of an obligation under a previous or existing contract with Transpower.
- 8.15 **Single Stage Open Tender:** Under a single stage open tender, a **request for proposal (RFP)** or a **request for tender (RFT)** may be issued without a pre-qualification (short-listing) process and all potential suppliers have an equal opportunity to respond to the tender. As a general rule, a single stage open tender should be used when there are few potential tenderers. Where the costs to suppliers of preparing a tender response are not significant, a single stage open tender may be used for many tenderers.
- 8.16 **Multi-Stage Open Tender:** As open tenders can be expensive to administer, when there are a large number of potential suppliers, or the cost of preparing a full tender response is likely to be significant to the supplier, a multi-stage open tender should be



used. This process allows for the pre-qualification (short-listing) of suppliers based on an initial assessment of their capability to fulfil a subsequent contract following a registration of interest (ROI) or an expression of interest (EOI). Tender documents are then issued to the short-listed suppliers.

- 8.17 **Tender Panel:** Transpower may issue an open invitation to suppliers of goods or services to be included on a Tender Panel comprising a limited number of suppliers, from whom Transpower will seek, from time to time, competitive bids for goods or services over a fixed period of time.
- 8.18 **Panel Contracts:** A “panel contract” (i.e. a contractual arrangement with a group of suppliers to provide goods or services as and when required, under a schedule of rates for each supplier or on a quotation basis) may be entered into with a group of suppliers to provide goods or services as and when required under an agreed schedule of rates regime and with an agreed set of contractual conditions, established as a result of an open tender process.
- 8.19 **Preferred Supplier Agreements:** A “preferred supplier agreement” may be entered into to procure goods or services over time from a single vendor established as a result of an open tender process.

9. AWARDING OF CONTRACTS

- 9.1 **Evaluation of Tenders:** All tenders must be received, opened, and evaluated using auditable procedures that guarantee the transparency, fairness and impartiality of the **procurement** process. For complex tenders, a Tender Review Committee, comprising appropriate personnel, may be established to evaluate the tender.
- 9.2 **Conforming Tenders to be Considered:** Tenders that, at the time of their opening, conform to the essential requirements of the tender request, and are submitted by a supplier that complies with the conditions for participation should be considered, other than a tender that otherwise represents good value to Transpower.
- 9.3 **No Obligation to Award Contract:** Transpower is under no obligation to enter into a contract with any tenderer.
- 9.4 **Award of Contracts to Suppliers Capable of Undertaking Contract:**
Unless determined that it is not in the public interest to award a contract, the contract must be awarded to the supplier that has been determined to be fully capable of undertaking the contract and whose tender is determined as offering the best Value Proposition in terms of the essential requirements.
- 9.5 **Notification of Award of Contract:** Upon awarding a contract, Transpower must promptly advise all tenderers of the decision.
- 9.6 **Reasons for Rejection to be Advised if Requested:** On request from an unsuccessful tenderer, pertinent information concerning reasons for rejection of their tender or the relative advantages of the tender must be promptly provided, unless doing so would compromise the confidentiality or effective operation of the tender process.

10. PRE-QUALIFIED SUPPLIERS

- 10.1 **Pre-Qualified Suppliers:** Transpower, at its sole discretion, may seek to establish a register of pre-qualified suppliers for specified goods or services. However, Transpower may, at its sole discretion, publish a notice of intended procurement and invite interested suppliers not already pre-qualified to apply to meet conditions of participation in the **procurement** process.
- 10.2 **Invitation to be a Pre-Qualified Supplier:** Transpower may publicise, from time to time, a notice inviting interested suppliers to apply for inclusion as a pre-qualified supplier. The notice must include:

- A description of the goods and services for which pre-qualified suppliers may be used; and
- The conditions to be satisfied by suppliers to be included as a pre-qualified supplier.

10.3 Removal as Pre-Qualified Supplier: Pre-qualified suppliers must be notified in writing of their removal as a pre-qualified supplier and the reasons for such removal.

11. TECHNICAL SPECIFICATIONS

11.1 No Unnecessary Technical Specifications: No technical specification which has the purpose or effect of creating unnecessary obstacle to international trade or domestic supply will be prepared, adopted or applied by Transpower.

11.2 Appropriate Technical Specifications Allowed: Technical specifications must, where appropriate:

11.2.1 Be specified in terms of whole of life performance and functional requirements, rather than by design or by descriptive characteristics; and

11.2.2 Be based on international standards, where applicable, or otherwise on national technical regulations, recognised national standards or building codes.

11.3 No Trademark or Patent Specifications to be Used: Technical specifications that require or refer to a particular trademark, trade name, patent, design, type, specific origin or producer or supplier must not be prescribed, unless there is no other sufficiently precise or intelligible way of describing the **procurement** requirements, and provided that in such cases words such as “or equivalent” are included in the tender documentation.

11.4 No Technical Specification Advice From Persons Interested: Transpower must not seek or accept advice, that is to be used in the preparation or adoption of any technical specification for a particular **procurement**, from a person who might have an interest in that **procurement** if to do so would prejudice fair competition.

12. SUPPLIER COMPLAINTS

12.1 Handling Supplier Complaints: Transpower will be open to, and accord impartial and timely consideration to, any complaints from suppliers regarding an alleged breach of this Policy arising in the context of a procurement in which they have or have had an interest.

13. ANNUAL PROCUREMENT PLANS

13.1 Annual Procurement Plan: Transpower may publish a rolling Annual Procurement Plan (APP). If published, it must be published on **GETS** and updated not less frequently than every 6 months.

13.2 Contents of APP: If published, the APP will contain a short strategic **procurement** outlook for Transpower supported by details of any planned **procurement**, including the estimated date of the publication of a notice of intended **procurement** on **GETS**.

14. PROCUREMENT PROCESS RECORDS TO BE KEPT

14.1 Adequate records must be made documenting the **procurement** process and reasons for decisions available to any authorities competent to hear or review supplier complaints of alleged breaches of this Policy and cooperate fully in such hearings or reviews. Records documenting all **procurement** which are readily accessible will be kept for the purposes of audit of compliance with this Policy.

14.2 Adequate records for audit purposes shall include Business Case(s), Procurement Plans, Tender documents, Evaluation Recommendation Report, Contract Negotiation records, Contract documents, invoices and invoice payment records.



15. MONITORING COMPLIANCE WITH THIS POLICY

- 15.1 Compliance to this Corporate Policy is monitored by General Managers for their Divisions, and the Manager, Sourcing, Supply & Contracts. Any breaches of this policy will be handled in accordance with the Compliance Policy.

APPENDIX 1: EXEMPTIONS AND EXCLUSIONS FROM THIS POLICY

Exceptions to open tendering, set out below, may be used as long as they are not being used to avoid competition. Any decisions made to use any exceptions should be supported by a **procurement** plan and market research, or other means by which the decision can be audited, to reveal those suppliers that have the appropriate level of skill to provide the goods or services:

1. Staff Contracts, Property Acquisition and Easements:

This Policy does not apply to the following **procurement** activities that are directly governed by separate processes:

- 1.1 Hiring of permanent staff;
- 1.2 The acquisition of persons covered by the Acquisition and Management of Temporary (Non-staff) Resources Policy;
- 1.3 Purchase and compensation associated with the acquisition of property and easements.

2. Direct Procurement from a Selected Supplier:

Direct **procurement** from a selected supplier is justified in the following circumstances:

- 2.1 There were either no tenders or no conforming tenders received;
- 2.2 The required goods or services are available from only one source or where the goods or services require specialised skills or are very complex and there is a limited number of qualified suppliers;
- 2.3 Only one supplier has the capacity to deliver goods or services at the time required;
- 2.4 Standardisation or compatibility with existing goods or services is necessary and can be achieved through only one supplier;
- 2.5 For **procurements** made under exceptionally advantageous conditions that only arise in the very short term, including but not limited to **procurements** resulting from liquidation, bankruptcy or receivership;
- 2.6 For goods and services procured pursuant to a negotiated government supply agreement;
- 2.7 For goods and services procured at a public auction or tender;
- 2.8 For goods and services where no reasonable alternative / substitute exists;
- 2.9 Where additional deliveries of goods by the original or proprietary supplier are intended for use as replacement parts or for upgrades which would otherwise compel Transpower to not meet interchangeability or warranty needs or where additional services are required as part of fulfilling an existing contract;
- 2.10 For any **procurement** made on a financial, derivative, or commodity market, where goods or services are bought and sold at a specific price through an exchange;
- 2.11 For goods and services procured from a Transpower subsidiary where it can be demonstrated that the subsidiary's **Least Cost/Value Proposition** is at least as good as a comparable competitor or other market participant;
- 2.12 In order to comply with specific legislative or regulatory requirements;
- 2.13 The System Operator's procurement of ancillary services under part C of the Electricity Governance Rules 2003;
- 2.14 Where, for reasons of urgency brought about by unforeseen events or to preserve safety or security, the goods or services could not be obtained in time by means of an open tendering procedure.