

REPORT

Date : 31 May 2020

To : Ordinary Council Meeting, 02 June 2020

From : Engineering and Service Group Manager – Ari Erickson

Subject : **2020-21 COUNCIL CONTRACT EXTENSIONS**

File ID : A200524

EXECUTIVE SUMMARY

Procurement strategies for Council's various activities were intended to be developed in line with Council's existing procurement policy for adoption by June 2020. Unfortunately, Covid-19 has delayed the strategies sufficiently to necessitate extension of existing contracts and operating engagements till June 2021. It should also be noted that the effects of Covid-19 on the current market present variables that should be taken into consideration through a final development pass of the strategies. Covid-19 has changed and is still changing the market, presenting risks of both unaffordable tenders for Council as well as unsustainable tender for contractors. At this stage it is believed the risk of extending current contracts and maintaining current operating engagements presents a lesser risk than procurement for all of Council's activities.

PURPOSE

The purpose of this report is to provide Council with an update of the development of procurement strategies and seek Council resolution to extend existing contracts and operating engagements till June 2021.

BACKGROUND

Procurement in Opotiki has historically followed minimal processes in line with government procurement guidance. These processes were generally only applied to Council's large projects and the land transport maintenance contract. In 2018 Council adopted a procurement policy in line with recommendations from Audit NZ. The policy set forward a set of principles in accordance with central

government guidance. The summary of these principles is 'to procure in a way that achieves value for Council and the community in a fair and competitive manner, minimising risk'. Procurements would be undertaken based on scale of risk and cost, generally low cost, low risk procurements would be by a 3 quotes methodology or direct appointment. High cost, high risk projects would be by competitive market tender.

Notably however there have been numerous activities that have continued on a job by job basis or via outdated, though functional, service level agreements and contracts. To remedy this the intention was to develop a series of procurement strategies for all of Council activities which would identify the best means of achieving the principles set out in the policy. These strategies would analyse numerous aspects including Council's current staff resources, the availability of local contractors, the performance of existing contractors, the potential for collaboration with adjacent Council's and current market factors.

The strategies were intended to be ready for adoption by 30 June 2020 enabling procurement for all activities identified. Unfortunately, various events, most notably Covid-19 have delayed the completion of the strategies by this date. Council's Land Transport strategy will likely be the only strategy to be brought to Council at the 30 June meeting.

DISCUSSION AND OPTIONS SECTIONS

Covid-19 has caused significant disruption to the development of procurement strategies for various Council activities. With the delay now sufficient to necessitate continuation of current practices for another year. Current practices will see Council's current contracts, bullet pointed below, extended for an additional year.

- Land Transport Maintenance Contract
- Solid Waste Collection Contract
- Solid Waste Transport Contract
- Three Water Reticulation Service Level Agreement
- Fleet Maintenance Contract
- CBD Street Maintenance/Litter Control
- Public Toilet Cleaning/Litter Control and Schedule Facilities Cleaning

Furthermore, the following activities will continue under direct engagements on a job by job basis

- Three waters mechanical services
- Three waters telemetry and SCADA services
- Professional services

Ideally the current practices would be wrapped up under a series of competitively tendered procurements. Notably however Covid-19 has not just delayed the completion but has also changed the face of the market. The market is in a state of flux, implying risk through uncertainty. On one hand there could be a reduced demand for work resulting in low and unsustainable tenders for contractors, on the other hand stimulus packages could cause a high demand for work resulting in high and unaffordable tenders for Council. Proceeding with new procurements at this stage could result in undesirable outcomes that could permeate the length of the contract, generally 3 years minimum.

Seeking and attaining letters of agreement to extend existing contracts allows Council to continue its activities with a degree of certainty over the delivery of service.

Officers expect that the effects of Covid-19 will become clear over the coming months and with that time also allow procurement strategies to be developed to cater for said effects and ideally provide surety and confidence for Council and benefit for the community through effective procurement planning.

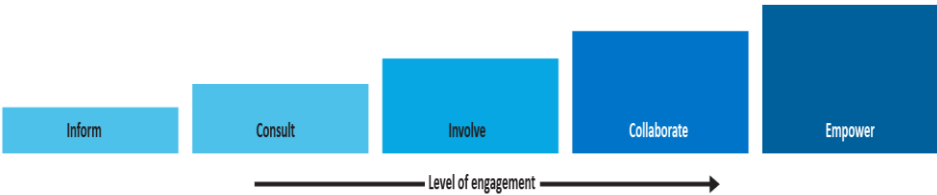
SIGNIFICANCE ASSESSMENT

Assessment of significance

Under Council’s Significance and Engagement Policy, on every issue requiring a decision, Council considers the degree of significance and the corresponding level of engagement required. The level of significance for extending Council’s contracts and continuing operational engagements per the status quo till June 2020 is considered to be low as determined by the criteria set out in section 17 of the Significance and Engagement Policy.

Assessment of engagement requirements

As the level of significance for extending Council’s contracts and continuing operational engagements per the status quo till June 2020 is considered to be low, the engagement required is determined to be at the level of inform according to schedule 2 of the Significance and Engagement Policy.



COMMUNITY INPUT AND PUBLICITY

Consultation on this matter is not being undertaken in accordance with section 13 of the Council's Significance and Engagement Policy. This states that the Council will consult in accordance with sections 82-83 of the Local Government Act 2002. The act outlines that consultation should be undertaken when persons are likely to be affected by or have interest in a matter and furthermore that Council may in its discretion choose not to consult if it understands the views and perspectives of those persons. With regard to the matters of this report the affected person's would be the contractors seeking to tender for the contract proposed to be extended. The perspective of these contractors would be that they would want an opportunity to tender.

CONSIDERATIONS

Financial/budget considerations

The decisions being sought in this report will have no impact on Council budgets. In consideration of potential changes to Council budgets due to Covid-19 it should be noted that the contracts that will be extended make allowance for removal of works to meet budgets.

Policy and planning implications

The decision being sought in this report is not significantly misaligned with Council's procurement policy. While in general Council's procurement policy sets forward that regular and fair competitive market tenders should be undertaken for all significant Council expenditure it also makes allowance for existing contracts to be extended where they can provide value for Council. In this instance, value for Council would be the minimisation of risk. Furthermore, in line with the governments rules for procurement there is allowance for 'direct sourcing' which includes contract extensions, in response to an emergency (pandemic).

Risks

The potential risk surrounding undertaking a competitive market tender is considered sufficient to justify the approach recommended. It is believed the approach aligns appropriately with the requirements of the government rules for procurement surrounding an emergency (pandemic).

Authority

Council has the authority to make decisions on the recommendations in this report in accordance with the Local Government Act 2002.

CONCLUSION

This report recommends that all of Council's current contracts be extended and operational engagements continue per the status quo till June 2021. This recommendation is made in light of the ongoing effects of Covid-19 both on the development of procurement strategies and the contractor market.

RECOMMENDATIONS

- 1. That the report titled "Council Contract Extensions" be received.**
- 2. That Council's contracts for Land Transport, Solid Waste Collection, Solid Waste Transport, Three Water Reticulation Maintenance and Fleet maintenance, CBD Street Maintenance/Litter Control, Public Toilet Cleaning/Litter Control and Schedule Facilities Cleaning, be extended to 30 June 2021.**
- 3. That Council's current practice of direct service (direct engagement) for Three Waters Mechanical, Telemetry, SCADA and professional services continue till 30 June 2021.**

Ari Erickson

ENGINEERING AND SERVICES GROUP MANAGER