

To SM021 Manual Users

Cc Senior Manager Procurement

From SM021 Steering Group

Date 5 June 2020

Subject Contract procedures manual (SM021) – Summary of amendments June 2020 – Third edition, Amendment 1

Purpose

To present the amendments made in the June 2020 Third edition, Amendment 1 publication of *Contract Procedures Manual (SM021)* which has been updated where required from the March 2020 issue (Third edition).

Note minor amendments are not always identified.

Table of Amendments

| Part A: Infrastructure procurement procedures | | |
|---|---------|--|
| Clause | Subject | Comment |
| Entire part | | AMENDED “Transport Agency” to “Waka Kotahi” in line with updated branding advice |
| Entire part | | UPDATED process for contacting Senior Manager Procurement. Wording added wherever there are references to approvals required by Senior Manager Procurement: To contact the Senior Manager Procurement please email procurement@nzta.govt.nz and clearly state the approval required in the subject line. |
| Terminology | | ADDED definition for Procurement lead – necessary change as a result of wording in Part B ADDED definition for Contractor – necessary change as a result of wording in Part B ADDED definition for Consultant – necessary change as a result of wording in Part B ADDED definition for Whole of life cost – necessary change as a result of wording in Part B |

| | | |
|--------------------------------|---|--|
| Delegated authorities schedule | | AMENDED references to delegated authorities schedule throughout Part A to specify “Delegated authorities schedule – Part A” to differentiate from Delegated authorities schedule – Part B AMENDED Delegated authorities schedule in light of update as at 15 April 2020 |
| 1.5.3 | Closed contest (Limited invitation to tender) | AMENDED exemption process detailed after this clause. Points users towards Exemption from open advertising Teams group and automated process. |
| 1.10.1 | Conflict of interest | ADDED the following wording to clarify what “involved in a procurement activity” means: (including, but not limited to, anyone who has input into the design, planning, participation in the evaluation process etc) |
| 5.12.1 | Approval to award contract Procedure | REMOVED requirement to publish notice of contract on Waka Kotahi website (GETS only) ADDED reference to GETS contract award notice guidance and flowchart to determine whether a notice of contract is required |
| 6.1.1 | Record keeping | UPDATED record keeping requirements to require electronic copies and to indicate process for retaining physical, signed copies of documents |

Part B: Non-infrastructure procurement procedures

| Clause | Subject | Comment |
|-------------------------------|---------|--|
| Entire part | | AMENDED proposer, respondent, tenderer etc to “supplier” AMENDED tender, response, submission to “proposal” AMENDED “Transport Agency” to “Waka Kotahi” in line with updated branding advice |
| Entire part | | RESTRUCTURED into Plan/Source/Manage structure with some sections moved to fit into that structure – these sections have not been individually identified |
| Title | | AMENDED to Corporate Procurement Procedures from Internal Operations |
| Part B (was Contract Process) | | CLARIFIED the scope of Part B of the manual |
| Procurement process map | | ADDED link to updated procurement process map |

| | | |
|---|---|--|
| Overarching governance (was Contract process) | | AMENDED reference from Government Rules of Sourcing to Government Procurement Rules CLARIFIED how GPR relates to this manual |
| Principles and the Government Charter | | ADDED section on the Principles of Government Procurement & the Government Procurement Charter including a diagram |
| Annual procurement plan | | ADDED section on Annual procurement plans |
| Significant services contract framework | | ADDED section on the Significant services contract framework |
| Process chart | | AMENDED process chart to MBIE's Plan, Source, Manage wheel |
| Summary of templates | | ADDED summary of templates used in Part B including hyperlinks to InfoHub |
| Delegated authorities schedule | | AMENDED references to delegated authorities schedule throughout Part B to specify "Delegated authorities schedule – Part B" to differentiate from Delegated authorities schedule – Part A AMENDED Delegated authorities schedule in light of update as at 15 April 2020 |
| Authority to procure and enter into contracts | | AMENDED title from "restriction on purchasing" |
| 9 | Planning to proceed with purchasing goods and/or services | AMENDED title from Overview |
| 9.1.1 | Established supplier panels and contracts | ADDED clause collating information about AoG, common capability contracts, syndicated contracts & Agency panels, outlined mandated vs encouraged |
| 9.1.2 | Direct appointment from established | ADDED definition AMENDED guidance around use of direct appointment |

| | | |
|-------|---|--|
| | suppliers and suppliers | ADDED reference to Direct appointment checklist and document pack |
| 9.1.3 | Closed contest utilising established suppliers and panels | ADDED definition AMENDED guidance around use of closed contest |
| 9.1.4 | Consultants and contractors | ADDED clause outlining the difference in process when procuring consultants and contractors |
| 9.2.1 | Open advertising | ADDED clause collating information about open advertising including types of RFx |
| 9.2.2 | Direct appointment | ADDED clause outlining the use of direct appointments outside of established suppliers and panels ADDED reference to Direct appointment checklist and document pack |
| 9.2.2 | Closed contest | ADDED definition AMENDED guidance around use of closed contest outside of established suppliers and panels ADDED reference to contract award notice guidance |
| 9.2.4 | Direct appointment and closed contests over the \$100,000 threshold | ADDED clause outlining exemption process. Points users towards Exemption from open advertising Teams group and automated process. |
| 9.2.5 | Open advertising evaluation methodology | AMENDED clause to outline possible evaluation methodologies |
| 9.2.6 | One or two envelope | ADDED clause regarding one/two envelope process |
| 9.3.2 | Emergency procurement | AMENDED clause to simplify content, directs users to MBIE's Guide to emergency procurement for further guidance |
| 9.4 | Procurement planning | ADDED section on procurement planning |

| | | |
|-------------|---|---|
| 9.4.1 | Introduction | ADDED introduction clause in procurement planning section AMENDED value for which a procurement plan is required to >\$100,000 ADDED minimum requirements for procurement plan ADDED consequences of failing to follow your procurement plan, RFx documentation and Government Procurement Rules |
| 9.4.2 | Existing contracts | AMENDED clause to require users check the contract register for existing contracts |
| 9.4.3 | Market analysis | ADDED clause on market analysis |
| 9.4.4–9.4.7 | Procurement planning based on Whole of life cost | ADDED clauses outlining the level of procurement planning required based on Whole of life cost including which template to be used |
| 9.4.8 | Business case as an alternative to a procurement plan | ADDED clause stating an approved business plan may replace a procurement plan – gathered information from throughout the document & brought together |
| 9.4.9 | Allocation of a contract number | ADDED clause requiring a contract number to be obtained in the planning stage |
| 9.5 | Engaging with Waka Kotahi | ADDED clause indicating Waka Kotahi teams that may be engaged with during the process |
| 9.6 | Selecting members of the Evaluation panel | ADDED clause regarding selecting Evaluation panel members |
| 9.8 | Conflict of interest | ADDED general conflict of interest clause |
| 10.1.1 | Preparation of RFx | AMENDED clause to clarify what is required in an RFx ADDED requirement to use Waka Kotahi branded templates |
| 10.1.2 | RFx response forms | ADDED clause outlining purpose of RFx response forms and RFP price/quality response forms |
| 10.1.3 | RFx period | ADDED clause calling out the minimum number of business days that must be allowed for preparation of proposals |

| | | |
|--------|--|--|
| 10.1.4 | Health and Safety requirements | ADDED clause outlining specific Health & Safety requirements in RFxs |
| 10.1.5 | Security and privacy requirements | ADDED clause outlining specific security and privacy requirements in RFxs |
| 10.2 | Inclusion of proposed contract in RFX | ADDED section outlining the default position as to the contracts to be included with RFxs. |
| 10.3 | Prior to the release of an RFX | ADDED section outlining review and approval process for RFxs. Includes clause noting that consultants cannot bid for an RFX they have prepared |
| 10.4 | Dealing with enquiries or complaints received from suppliers | ADDED clause outlining the process for dealing with enquiries or complaints received by suppliers during the RFX process |
| 10.5 | Interactive meetings | ADDED section outlining use and structure of interactive meetings |
| 11.1.1 | Introduction | AMENDED section to highlight RFxs are released via GETS ADDED template to provide information to the Tender Secretary to release the RFX |
| 11.1.2 | Change to RFX documentation after issue | ADDED section around changes to RFxs |
| 11.2 | Communicating with suppliers | AMENDED this section to outline process for communicating with suppliers ADDED requirement to use Waka Kotahi branded templates |
| 12.1 | Tenders register and eTender box | AMENDED these clauses to remove any references to physical tender boxes and to reinforce requirement to go through GETS |
| 12.2 | Receipt of proposals | AMENDED these clauses to remove any references to physical tender boxes and to reinforce requirement to go through GETS ADDED process for receipt of proposals by email |

| | | |
|-----------------|---|---|
| 12.3 | Processing of late proposals | AMENDED this clause to outline the process for receipt of late proposals |
| 12.4.2 | Procedure | AMENDED clause regarding opening of proposals REMOVED process sequence diagram |
| 12.4.3 & 12.4.4 | One/two envelope approach | ADDED clauses on the procedure for dealing with proposals received in a one/two envelope approach |
| 12.5.3 | Procedure | ADDED requirements to check font and page limit |
| 12.5.4 | Mandatory criteria | ADDED clause outlining the process for the Procurement lead to check RFxs for compliance with mandatory criteria |
| 12.6.3 | Errors in the price file | ADDED clause regarding process for managing errors in the price file |
| 12.7.2 | Modification of proposals due to market change | ADDED clause to outline the process where suppliers modify price or terms of their proposal due to market change |
| 13.1.1 | Introduction | REMOVED reference to reserving the right to change the Evaluation panel |
| 13.1.3 | Confidentiality of evaluation process | ADDED sentence "This information will be held securely by Waka Kotahi" |
| 13.1.4 | Prior to the commencement of the evaluation process | ADDED requirement to update the conflict of interest form and provide to the Evaluation panel chair |
| 13.1.5 | Evaluation panel guide | ADDED reference to the Evaluation panel guide that must be completed prior to the Evaluation panel starting evaluations |
| 13.1.6 | Role of the Evaluation panel | AMENDED clause to call out specific role of the Evaluation panel |

| | | |
|---------------|---|---|
| 13.1.7 | Managing conflict of interest on the Evaluation panel | ADDED clause on the specific requirements regarding conflicts of interest on the Evaluation panel – modelled from Part A |
| 13.1.10 | Referee checks | AMENDED section to restructure bullet point list ADDED sentence “Ideally, these referees provided should not be members of the Evaluation panel” ADDED requirement that Evaluation panel members do not conduct additional reference checks outside of the formal reference check process |
| 13.1.11 | During the evaluation process | ADDED bullet point on the difference between clarification and negotiation |
| 13.1.12 | Presentation of proposals | AMENDED content to call out that the RFX must specify presentations as a possibility |
| 13.1.15 | Public sector entities | AMENDED Crown entities to Public sector entities |
| 13.2.2 | Clarification | AMENDED content to clarify the process for seeking clarification or additional information |
| 13.5 | Evaluation methodologies | AMENDED title from “Supplier selection methodologies” |
| 13.5.1–13.5.7 | | AMENDED content to reflect MBIE guidance on selecting evaluation methodologies |
| 13.5.5 | Scoring of quality evaluation criteria | ADDED clause regarding process for scoring proposals and outlining the minimum acceptable quality evaluation score |
| 13.6 | Evaluation recommendation report | AMENDED section to require completion of the Evaluation recommendation report |
| 13.7 | Due diligence | AMENDED section to align with MBIE guidance |
| 13.8 | Negotiations | AMENDED section to align with MBIE guidance ADDED references to Negotiation plan and Negotiation checklist templates |
| 13.9.1 | Procedure | AMENDED to simplify procedure, referenced Information and data management policy |

| | | |
|--------|--|---|
| 13.9.2 | Information required for an award notice | AMENDED to reference the <i>Government Procurement Rules</i> and the information required for an award notice |
| 14.1 | Supplier debrief meetings | AMENDED this section to note the debrief meeting will be with a Waka Kotahi representative, Procurement lead to complete the debrief template |
| 14.2 | Contract format and alternatives | AMENDED this section to include clauses on finalising the contract, and clarified a Deed and a Letter of intent as alternatives to a formal contract |
| 14.4.1 | Introduction | ADDED clause to outline general process for signing of contracts by Waka Kotahi and suppliers |
| 14.4.2 | Contract completion cover sheet | ADDED clause requiring completion of the contract completion cover sheet prior to sending contract for signing by the delegated financial authority |
| 14.4.3 | Technology-related contracts | ADDED clause outlining process for signing all technology-related contracts or agreements |
| 14.4.4 | Supplier contract signing | ADDED clause referring to Part A (which outlines in detail the signing process for suppliers based on their entity structure) |
| 14.4.5 | Contract register updates | ADDED clause outlining requirement to update contracts register |
| 14.5 | Assignment or novation of contracts | ADDED clause referring to Part A (which outlines in detail the process for assignment or novation of contracts) |
| 14.6 | Introduction | UPDATED record keeping requirements to require electronic copies and to indicate process for retaining physical, signed copies of documents |
| 15.1.1 | Introduction | AMENDED clause to outline the role of Contract Managers |
| 15.1.2 | Supplier performance | AMENDED clause outlining the process for monitoring supplier performance |
| 15.2 | Contract filing | AMENDED clause to outline process for getting variations ADDED requirement to comply with Government Procurement Rules and seek an exemption if required |

| | | |
|------|----------------|--|
| 15.3 | Contract close | ADDED clause outlining the process for closing a contract when it is due to expire (and has no rights of renewal or variations expected) |
|------|----------------|--|

Queries/feedback

Any queries/feedback on this edition should be sent to procurement@nzta.govt.nz.