

CONTRACTS MANUAL

PART TWO

PROFESSIONAL SERVICES CONTRACTS

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In this Part Two the following nomenclature has been adopted.

1. Numbers shown **bold** refer to the clause numbers of this part of this manual.
2. Numbers and text shown in *italics* refer to clause numbers of the ALGENZ/Transit NZ/IPENZ/ACENZ Conditions of Contract for Consultancy Services, Feb 2000. This document is referred to throughout Part Two as “the Professional Services Conditions”.

1. **Introduction**

Part Two of this Manual covers the policy and process of Professional Services Contracts. Council uses Professional Services Contracts for work such as feasibility studies, building, road and services design, and contract administration. Professional Services Contracts can be Lump Sum Contracts, Schedule Rate Contracts, or Percentage Fee Contracts.

Commissions with fees less than \$30,000 normally do not require a formal contract but the brief and terms of engagement must be in writing, and confirmed by an exchange of letters, a “Record of Engagement of External Service Provider” form shall also be completed and filed for records.

Completion of a “Hutt City Council Service Contract” short form agreement or similar is also advisable.

Commissions with fees over \$30,000 do require a formal contract, including a completed agreement form (refer Appendix 13).

A Professional Services Contract may involve the Consultant administering a Physical Works Construction or Maintenance Contract, or a Purchasing Contract. In these cases, the Consultant must follow the policy and process set out in the relevant part of this Manual.

All contracts/agreements for engagement shall include reference to HCC Health and Safety requirements.

Signed certifications by tenderer/contractor and acceptance by HCC Project Manager shall be referred to/appended to any contract.

2. Preliminaries

The following preliminaries must be completed before Council calls for tenders.

2.1 Consultation

Contracts that may affect other Divisions of the Council must be discussed with the appropriate officers.

2.2 Cost Estimate

The Project Manager must prepare a cost estimate covering all the work set out in the Contract Documents. This estimate will be included in the Project Manager's Tender Report/Recommendation for Engagement of Consultant.

2.3 Contract Numbers

Corporate Information, Records, holds a register of contract numbers. The Project Manager or the Client's Representative must obtain a contract number.

A new contract number must be obtained for projects that are significantly rescope or retendered after the issue of the original contract number.

2.4 Insurance

The Consultant shall provide insurances as required by *Clause 6.5* of the General Conditions of Contract.

The limitation of liability (refer to *6.2*), the amount of the covers required in respect of *6.5* and the Duration of Liability (refer to *6.4*) shall be discussed and agreed with the Client's Representative. In special circumstances where there is a perceived unusual or high risk to be insured and where agreed with or directed by the Client's Representative it will be appropriate to consult the Council's insurance brokers for advice prior to finalising the insurance requirements for the contracts documents.

The minimum limitation of liability shall be \$200,000. The minimum amount of cover for public liability shall be \$1,000,000.

2.5 Method of Tender Evaluation

Tender Proposals for Professional Services Contracts shall be evaluated using one of the following methods:

- (a) By Negotiation.
- (b) Lowest Price Conforming Method
- (c) Weighted Attribute Method; or

- (d) Price/Quality Method (refer to *Section 4.1 "Council Policy on Advertising and Evaluation of Tenders"* for typical evaluation methods).

2.6 Administration Checklist

The Project Manager must complete and file a Contract Administration checklist (see Appendix 01).

3. Preparing the Request for Tender (RFT) Documents

Tender Documents consist of:

1. Table of Contents
2. The Professional Services Conditions
3. Conditions of Tendering
4. Form of Tender Proposal
5. Schedule of Deliverables and Programme (as applicable)
6. Special Conditions
7. Design Brief Specification
8. Standard Specifications when applicable
9. Drawings and other Client inputs when applicable
10. Documentation required in terms of Hutt City Council Health and Safety Specification for Contracts – No.31 and Hutt City Council Health and Safety Requirements for Design Briefs – No.32
11. Consultant's Evaluation of Contractor's Performance

All the documents, apart from the plans, must be on A4 size paper, and appropriately bound.

3.1 Checklist

The Project Manager must file a checklist of all the above RFT documents. (See Appendix 02).

3.2 Document Details

3.2.1 General Conditions of Contract

The General Conditions of Contract for Professional Services Contracts are:

ALGENZ/Transit NZ/ACENZ/IPENZ Conditions of Contract for Consultancy Services, February 2000 ("the Professional Services Conditions").

3.2.2 Conditions of Tendering

The Conditions of Tendering shall be in the form of Appendix 04 (or shall otherwise ensure compliance with the requirements as noted in Appendix 04).

Information required to be submitted with the tender proposal includes:

- (a) Tenderer's attributes.

- (b) Completed certification and other documentation required in terms of Hutt City Council Health and Safety Specification for Contracts – Specification No. 31 and Hutt City Council Health and Safety Requirements for Design Briefs – Specification No. 32.

3.2.3 Form of Tender Proposal

The standard Form of Tender Proposal shall be used. (See Appendix 05).

3.2.4 Special Conditions

The Special Conditions shall be in the form of Appendix 06 (or shall otherwise ensure compliance with the requirements as noted in Appendix 06).

For short duration (less than 2 months)/one off projects where there is no specific schedule of fees linked to a Schedule of Deliverables as required by the client representative, an invoice for fees may be submitted at the end of the project. Where applicable this will be the fee amount quoted prior to commencement of the Contract.

For longer duration projects, invoices for fees shall progressively be made monthly, being either:

- (a) Equal amounts spread over the designated contract period, accumulating to the original quoted fee, or
- (b) Monthly progress claim totals linked to the schedule of fees and deliverables and milestones stated in the programme, accumulating to the original quoted fee.

(Where it is possible to readily define a schedule of deliverables and required programme, option (b) shall be used).

(Refer Appendix 7 for sample “Schedule of Deliverables and Prices).

All progress claims shall detail:

- Previous claims (including variations)
- Claims in month (including variations)
- Total claim to date
- Original quotation (total)
- Revised forecast (total)

Monthly progress invoices for fees must be submitted by the fifth working day of the succeeding month for payment to be made by the 20th of that succeeding month.

3.2.5 Design Brief Specification

The Specification must contain:

- A precise statement of objectives
- The scope and timing of the service.
- Client inputs.
- The Consultant's deliverables.
- The general requirements relating to the provision of professional services.

The IPENZ/ACENZ publication "The Briefing and Engagement of Consultants" gives detailed guidelines for design briefs.

3.2.6 Standard Specifications

The Hutt City Council Standard Specifications are to be used with the design brief specification when applicable. (See list of standard specifications – Appendix 55 to Part Three).

3.2.7 Drawings and Other Client Inputs

The Drawings and other client inputs when applicable illustrate and describe the project. All Drawings must be numbered (numbers must be in accordance with the appropriate Council series and are available from Engineering Records) and dated, to provide unique identification during and after the project.

3.2.8 Generic Documentation

Some divisions of Council require a pre-determined format for Contract Documents, including detailed Conditions of Tendering, Conditions of Contract and Basis of Measurement and Payment, specific to their asset type/area of responsibility. Where available these (generic) pre-formatted documents shall be used as a base document for Projects. Conditions of Tendering and Special Conditions of Contract may include requirements for tenderers/service providers additional to those noted in this

Contracts Manual. Any such generic document shall be reviewed and updated to meet the specific requirements of each project.

3.3 Health and Safety

The documentation required in terms of Hutt City Council Health and Safety Specification for Contracts – Specification No. 31 and Hutt City Council Health and Safety Requirements for Design Briefs – Specification No. 32, shall be included in the RFT.

4. Calling for Tenders

4.1 Council Policy on Advertising and Evaluation of Tenders

The tender advertising policy for Professional Services Contracts is:

Anticipated Contract Value <i>(Total value for period of professional services contract, not annual value)</i>	Tender Requirements (Council does not advertise for open tenders for Professional Services Contracts under \$50,000)	Recommended Method of Evaluation
(a) Less than \$30,000	Either: Engage pre-approved/suitably qualified consultant previously engaged by HCC for similar services; or Seek three written quotations	Negotiation and Divisional Manager approval. Lowest price conforming
(b) \$30,000 to \$50,000	i) Land Transport NZ subsidised works: Either: Obtain specific approval from Divisional manager and engage pre-approved/suitably qualified consultant previously engaged by HCC for similar services; or Seek three written quotations (ii) Non-subsidised Works Seek three written quotations	Negotiation and Divisional Manager approval. Lowest price conforming Lowest price conforming
(c) \$50,000 to \$200,000	Either: Council must obtain at least 3 written quotations from suitably qualified consultants; or Council advertises for Open Tender	Simplified Weighted Attributes Method (evaluate at least Methodology, Technical Skills, Resources and Commitments, Prices) (not to be used for Land Transport NZ – subsidised works).; or Weighted Attributes Method Price/Quality Method Target-price Method

(d) More than \$200,000	Council advertises for Open Tender (all cases)	Weighted Attributes Method Price/Quality Method Target-price Method Brooks Law
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The policy can be varied, with the approval of the General Manager City Services, or Council’s Chief Executive if the work is so specialised that there will only be a small number of suitable tenderers.

4.2 Pre-qualification Determination

The tender process for highly specialised work may include a pre-qualification phase. The tender process will then be one of the following:

<p>1. Prequalification Phase Council advertises for expressions of interest from possible tenderers.</p>	<p>2. Tender Phase Council assesses pre-qualification submissions and invites written quotations from suitable tenderers.</p>
<p>1. Pre-qualification Phase Council advertises for general tenders, seeking a broad description of work and estimated price.</p>	<p>2. Tender Phase Council assess pre-qualification submissions and invites detailed tenders from suitable tenderers.</p>

4.3 Advertising Process

All advertising is done through the web-based LGOL E-Tender system (administered by Tenderlink for Hutt City Council). This shall include placement of at least one advertisement in the Dominion Post daily newspaper and/or one advertisement in the weekly Hutt News.

The Client’s Representative shall decide whether extra advertising is needed for large and complex contracts.

Each advertisement shall comprise:

- a brief description and scope of the work;
- information on where the tender documents are available; and
- closing time and date of tenders.

All advertisements including the closing date of tenders shall be agreed with the Client's Representative, taking into account the size and complexity of the contract.

A draft advertisement shall be prepared on the standard form (see Appendix 8). This shall be forwarded to the City Services Admin Coordinator, Utility Services along with electronic copies of all tender documentation for forwarding to Tenderlink Ltd..

5. Issuing RFT Documents

5.1 Method of Issuing

RFT Documents may be:

- sent to prospective tenderers by the Council;
- collected from the Council; or
- downloaded from the “E-tender” website
- for Professional Services contracts of a value less than \$50,000 only – issued from the Project Manager’s office.

The person issuing the documents must ensure the following information is recorded in the Contract Book, held in the Hutt City Council Customer Service Centre:

- Name, postal address and contact telephone number of the firm taking out the documents.
- Set number and date of issue of the documents.

5.2 Confidentiality

Except for Transfund subsidised roading projects, the names of parties taking out the documents are normally confidential, and should not be made known to others without obtaining the Client’s Representative’s approval.

For Transfund subsidised projects the names of parties taking out documents shall be made available on request by any interested person.

6. Receiving Tender Proposals

6.1 Submission of Tender Proposals

All tender proposals must be submitted in accordance with the requirements set out in the Conditions of Tendering.

6.2 Late Tender Proposals

Council will only accept late tender proposals that are in the Tender Box prior to it being opened.

6.3 Opening Tender Proposals

Tender Proposals shall be cleared from the Tender Box as soon as possible but not later than 60 minutes after the closing time.

The Project Manager shall open and record the tender proposals, witnessed by Executive Assistant, City Services Office or other designated and appropriate independent Council officer.

Both officers shall complete and sign a Tender Opening Schedule. This Schedule notes the names and addresses of all the tender proposals received and each tendered sum. (See Appendix 09).

6.4 Checking Tender Proposals

Tender proposals must be checked to ensure that the tender proposal conforms with all the requirements set out in the Tender Documents.

7. Evaluating Tender Proposals

7.1 Evaluation Procedure

All tender proposals shall be evaluated using the method identified in the Conditions of Tendering. This may be a Transfund CPP method.

The tender evaluation process shall seek to identify the tender proposal which provides the best overall value to Council in the circumstances of the particular project. Value to Council can be measured in many ways including innovation, attention to detail, specialist skills or experience, prompt response, etc.

The most important factors may vary from project to project.

7.2 Tender Report

The Project Manager shall prepare the Tender Report after tender proposals have been evaluated. (See Appendix 10).

Contains:	SENT TO:
<ol style="list-style-type: none"> 1. A brief description of the project services 2. The Project Manager's estimate of the overall cost of the services. 3. The method of calling for tender proposals. 4. List of tender proposals received with tender prices. 5. Details of any errors or tags in any of the tender proposals. 6. A brief summary of the evaluation process. 7. Source of funds, with reference to the Hutt City Council Annual Plan/LTCCP. 8. Comment and explanation on any relevant matters. 9. Answers to any questions that can reasonably be anticipated. 10. A recommendation on which tender should be accepted. 	<p>The Client's Representative, for their approval and action.</p> <p>The Client's Representative will require copies for forwarding to:</p> <ul style="list-style-type: none"> • General Manager • Divisional Manager • Asset Manager • Hutt City Council Corporate Information Records

7.3 Tender Acceptance Form

Appended to the Tender Report (Appendix 10) shall be a tender acceptance form, to be completed by the Divisional Manager or other officer with delegated authority (refer Appendix 11).

8. *Accepting a Tender Proposal*

Tenders are accepted in terms of the Hutt City Council Delegations Register. The Client's Representative reports to the relevant committee, and that committee formally advises Council of acceptance.

8.1 **Advising Tenderers**

Successful and unsuccessful tenderers must be advised in writing of the acceptance of tender. The following table sets out the requirements for the letters to the successful and unsuccessful tenderers.

Sent To:	Successful Tenderer	Unsuccessful Tenderer
When	As soon as practicable after the decision to accept tender.	
Contains	<ul style="list-style-type: none"> • Advice of acceptance. • Confirmation of tendered sum for the services • Number of tenders received. • Price range of conforming tenders <li style="padding-left: 20px;"><i>For Weighted Attributes/price/ quality evaluated tenders:</i> • Range of scores for each non-price attribute. • Their individual attribute scores. • Any other information where required for Transfund subsidised projects. 	<ul style="list-style-type: none"> • Name of successful tenderer. • Price of successful tenderer. • Number of tenders received • Price range of conforming tenders • Range of scores for each non-price attribute • For each tenderer their individual attribute scores • Any other information where required for Transfund subsidised projects.

In addition, the letter to the successful tenderer shall include a request for:

- Insurance certificate(s) enclosing Form of Certificate as to Consultant's Insurances (See Appendix 12); and
- Other requirements of the Contract Documents prior to the commencement of the services e.g. Work Plans.

9. Contract Documents

The Project Manager shall arrange for the Form of Agreement for Engagement of a Consultant to be signed by the Consultant and Council. The Agreement shall be on the standard form (See Appendix 13).

9.1 Client's Set

The Client's Set is the official file for the contract. It shall contain:

- The Conditions of Tendering
- Notices to tenderers (if any)
- The Consultant's tender proposal
- The notification of acceptance of tender proposal
- The Special Conditions
- The Design Brief Specification and any applicable standard specifications
- The Drawings and other Client inputs when applicable
- Letters to unsuccessful tenderers
- Other documents generated during the course of the contract.

The following table summarises the Client's Set:

CONTAINS:	The signed Tender Proposal and letter of acceptance together with other related documents and other documents generated during the contract.
Held By:	Corporate Information Records Never remove from the Administration Building
Used For:	Official contract file
Kept Until:	Permanent Record

The Project Manager must complete and file a checklist of the Client's Set of documents as a quality assurance measure. (See Appendix 03).

9.2 Project Manager's File

The Contract set retained by the Project Manager shall be kept on the Project Manager's file. The following table summarises the Project Manager's file.

CONTAINS:	<ol style="list-style-type: none"> 1. Copy of the signed Tender Proposal and letter of acceptance together with other related documents. 2. All relevant documents created during the contract, such as: <ul style="list-style-type: none"> • Routine Reports • Correspondence • Variation Orders
Held By:	Project Manager
Used For:	Project Manager's record during the contract
Kept Until:	The end of the contract, when relevant papers are transferred to the Client's Set.

9.3 Unsuccessful Tenders

The Corporate Information Records must hold all documents relating to unsuccessful tenders.

10. Variations

The Professional Services Conditions, Section 7, sets out the requirements in respect of variations to a contract.

Any agreed variation must be in writing and must be signed by the Team Leader and the Project Manager.

The Project Manager may direct the Team Leader to carry out a variation. The consequences of cost, time of supply or scale shall be agreed in writing before work is commenced.

11. Payments

The Consultant shall submit GST Tax Invoices to the Project Manager for payment by Council in accordance with the provisions set out in the Special Conditions.

When approved for payment the GST Tax Invoice shall be split and debited to two charge numbers as follows:

- The GST amount to charge number 94240000.9050
- The balance to the charge number raised for the contract (either “sub ledger” code or “job-cost” code).

12. Disputes

Every dispute or difference concerning the contract shall be dealt with in accordance with *The Professional Services Conditions, Section 10*.