



Queenstown Lakes District Council

Procurement plan

Legal Services Panel C-24-038

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Acronyms

The following acronyms are used in this document.


Acronym	Term
RFP	Request for Proposal
TET	Tender Evaluation Team

Approvals

Approval of the plan

Procurement manager / procurement team leader			
Process type:	Open competitive		
Name:	Brendan Peet		
Position/title:	Head of Legal		
Signature:			Date: 01/12/2023

Authority to proceed to tender

Project sponsor			
Approval to:	Go to market and identify the preferred suppliers.		
Tender start:	22 January 2024		
Contract start:	1 July 2024		
Name:	Brendan Peet		
Position/title:	Head of Legal		
Signature:			Date: 01/12/2023

Approval of the budget

Delegated financial authority holder			
Total cost:	\$11,967,530 GST excl		Cost code: 2990 2320
Financial year:	Financial year	Amount	Funding type
	2023/24	\$2,435,650	Opex
	2024/25	\$2,421,720	Opex
	2025/26	\$2,386,720	Opex
	2026/27	\$2,391,720	Opex
	2027/28	\$2,331,720	Opex
Name:			
Position/title:			
Signature:			Date:

Background

What we are buying and why

The current legal services panel has been in place since 2018 and expires mid-2024. Four panelists have supplied a range of legal services during this period.

The Queenstown Lakes District is experiencing high growth, this puts significant demand on all areas of Council to effectively manage and deliver their services. In the time since the current legal services panel has been in place and in response to the high growth, Council must augment their internal legal services capability and capacity with specialist panelist service. This has resulted in some minor changes to the scope and style of the external legal support required.

To that end, Council is seeking to implement a refreshed Legal Services Panel for the provision of legal advice and support in the following disciplines within a Local Government context:

- Environmental and RMA
- Infrastructure delivery (commercial transactions on large scale construction projects and consenting)
- Public /local government law
- Commercial
- Dispute Resolution and Litigation
- Property and Conveyancing

The panelists will be selected for their ability to provide a range of services at a range of experience levels from Partner to Junior Lawyers with a mix of small-medium-large forms including some Sole Barristers.

The panelists will be specifically assessed on their ability to demonstrate a local perspective and act as an extension to the internal team. While capability and commitment to working along side Council are considered key outcomes, value for money will be assessed by weighting the average rates for services against the anticipated work load for each discipline. Anticipated workloads and expected distribution across the various 'skill levels' will be communicated within the RFP.

Market analysis

The supply market

Based on previous panel tender exercises in 2013 and 2018, the market is mature with a good degree of market response (10+). Key to this panel selection is a range of capacity and capability.

Based on the 2024 – 2028 demand profiles (and looking at the past 24 months of sourcing), Council is anticipating a sourcing mix of:

Full Service National Firms. Currently fulfilled by Simpson Grierson, Meredith Connell, Wynn Williams and Lane Neave.

Small – Medium firms (Christchurch-Queenstown based). This is a new opportunity for firms which can provide outstanding legal services in particular areas, and combine that with local knowledge and contacts.

Sole Barrister. This is a new opportunity for barristers who are able to be briefed directly by QLDC's in-house legal team, to provide specialist advice on discrete legal questions and issues.

The council generates a wide variety of legal work. The amount of work and the prospect of assisting with the delivery of a significant CAPEX program makes QLDC a very attractive client for most law firms.

Desired supplier relationship

Given the proposed length of the contract, the level of desired trust and communication with the supplier and the approach to managing risk the Council will seek a strategic collaborative relationship with the panelists.

This means selecting suppliers who act as trusted advisors to Council who are accessible and deliver specialist advisory expertise in quick turnaround time frames and can take a phone call at most times of day.

These suppliers build up an intimate understanding of Council's needs and operating profile and don't require inordinate amounts of briefing time.

Requirements and costs

Our requirements

In summary we need to procure a competent right sized panel of legal firms, ready to go before the end of June 2024. The skill, and expertise mix is set out in a detailed statement of our requirements contained in Appendix 1.

Key dates

We require the contract to commence by 1 July 2024

We estimate that the sourcing of the supplier and contract negotiations will take 4 months.

This means that the tender must be initiated by 22 January 2024

Estimated costs

An estimate of the total cost over the whole-of-life of the contract, exclusive of GST is \$11,967,530 GST.

Key stakeholders

Internal stakeholders

The key internal stakeholders are set out below.

Internal stakeholders' roles and level of engagement

Role	Characteristics	Stakeholders
Responsible	The person or people responsible for undertaking the procurement.	Paul Rogers
Accountable	The person or people that have authority to make decisions and are accountable for the outcomes.	Brendan Peet
Supportive	The person or people that do the real work.	Paul Rogers
Consulted	The person or people who needs to be consulted to add value or get 'buy-in'.	Legal Services Team

Informed	The person, people or group, groups that need to be kept informed of key actions and results, but are not involved in decision-making or delivery.	Corporate Services
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Communications

Council will communicate with internal stakeholders through team briefings on procurement progress and final outcomes.

The agency will communicate with external stakeholders through GETs.

Tendering process

Type of tender

The recommended approach to market is a one-step open competitive tender.

The reason for this recommendation is that it ensures fair open market competitive tendering opportunity for the market to respond.

This approach to market fits with the Councils procurement policies, the *Government rules of sourcing* and the New Zealand Government's procurement principles.

Market engagement

In developing the business case and analyzing the market, the agency engaged with its current panelists in respect to the past 5 years of service delivery.

The contract opportunity will be advertised on GETS.

Evaluation team

A cross-functional team will be involved in the evaluation of bids and recommending the preferred supplier.

Tender Evaluation Team (TET) members

Role	Name	Organization
Chair of Evaluation Panel	Paul Rogers	Spire Consulting Limited
Legal & Probity Advisor	Bec Roberston	QLDC
Voting Member	Brendan Peet	QLDC
Voting Member	Mary Davenport	QLDC
Voting Member	Alyson Hutton	QLDC
Voting Member	Stewart Burns	QLDC

Proposed timeline

The proposed timeline for the procurement is as follows. Please note that this example is based on a one-step open tender.

Indicative timeline

Action	Indicative date
Pre-procurement	
Procurement plan approved	30 November 2023
Tender documents developed	15 December 2023
Tender documents approved	20 December 2023
Tender	
Tender advertised on GETS	22 January 2024
Last date for supplier questions	20 February 2024
Last date for agency to answer questions	27 February 2024
Tender closing date	29 February 2024
Evaluation	
Panel confidentiality and conflict of interest declarations signed	22 January 2024
Evaluation panel meets	12 March 2024
Interview short listed suppliers TBC	19 March 2024
Panel minutes and recommendation	2 April 2024
Recommendation accepted/denied	End April

Action	Indicative date
Post-evaluation	
Advise bidders of outcome	Beginning May 2023
Debrief unsuccessful suppliers	May
Due diligence and contract appointment	May
Contract start date	1 July 2023

Evaluation methodology

Evaluation method

The attributes evaluation model that will be used is weighted attribute (weighted score)

Price will not be a weighted criterion. Instead price will be taken into account in determining overall value for money over the whole-of-life of the contract. A two envelope process will be used and suppliers' pricing will only be opened once the criterion scoring is completed].

Evaluation criteria and weightings

To maintain consistency with other procurement initiatives the selection criteria will be broken into four overarching categories capability, capacity, solution and value for money. The evaluation method will be similar to a weighted attributes approach where capability, capacity and solution form the non-price attributes, value for money will be assigned a weighting and will be assessed on a by discipline basis.

We expect to receive a large volume of responses due to the appeal of QLDC as a client however we want to restrict the number of panel members to four for reasons as stated. We have decided to include a presentation step following the initial quality evaluation. The best-case scenario is that the initial evaluation reveals four clear preferences therefore the presentations can be used as a mechanism for 'on boarding' and clarification with our preferred suppliers.

In the event that the respondents cannot be shortlisted to four following initial evaluation we would extend the presentation opportunity to up to six respondents. We would then have the opportunity to clarify any necessary elements and conclude the panel composition on that basis.

The weighting and high-level content under each category are as below. These weightings and categories are indicative and will be developed further with input from key stakeholders.

Preconditions

1.	Supplier must hold a current practicing certificate from the New Zealand Law Society.
2.	Supplier must hold current professional indemnity insurance valued at \$5m.
3.	Supplier must accept all Council's RFP and Agreement Terms and Conditions

Having met all of the preconditions qualifying bids will be evaluated on their merits using the following evaluation criteria and weightings.

Criterion	Weighting
Solution: Technical merit (fit for purpose)	30%
The Solution category is unique when applied to the context of legal services procurement and is intended to adequately capture the specific outcomes Council's in-house legal team are seeking from the new panel. Therefore, each respondent will be required to specifically demonstrate the following under the solution category:	
Commitment to a local understanding and approach (whether physically located in the District or not)	
Commitment to collaboration and joint ownership of Council's risk and exposure	
Clear demonstrated evidence of quality attributes spanning technical , fit for purpose and commercial context of legal advisory services delivered into local government environments.	
Proposed approach to flexibility regarding the type and style of advice provided, specifically balancing formal advice with support to Council's team	
How value will be added to the delivery of legal services for Council	
Strategic advice and business improvement aligned directly to QLDCs strategic objectives.	
Capability and Capacity of the supplier to deliver	30%
Skill level of nominated 'Key Personnel' for each discipline	
Evidence of experience in the required disciplines listed	
Track record in Local Government	
Examples of value-added features embedded in the service delivery offering including training, collateral, reporting tools and sector knowledge.	
Staff numbers and availability in each discipline	
Application of technology to enhance service delivery productivity with tangible examples as deployed elsewhere for Local Govt. clients	
Availability of dedicated management and administrative staff	
Value for money (based on whole-of-life cost)	20%
Respondents will be required to provide rates against each of the key personnel and support staff using the same set of 'skill level' descriptions e.g. Partner, Senior Associate, Solicitor, Law Clerk and Admin support.	
TOTAL	100%

Respondents will be required to provide rates against each of the key personnel and support staff using the same set of 'skill level' descriptions e.g. Partner, Senior Associate, Solicitor, Law Clerk and Admin support.

In order to provide a realistic comparison a standard assumed quantity of hours for each level of expertise will be used in the value for money evaluation of each discipline. These will be based on a realistic apportionment of work across the different levels of expertise.

Overall assessment

Council's ultimate desired outcome is to appoint a panel that can deliver the best overall solution when comparing capability, capacity, solution and cost across the various disciplines.

The evaluation team will assess each of the disciplines separately using the weighted attributes method; considering the capability, capacity, solution and value for money of the supplier in each discipline to which their response applies.

The evaluation process which consists of an initial assessment, shortlisting, presentations as required, clarifications and panel finalisation will ensure that the suppliers who together provide Council with the

Scope of service offering

Due to the varied nature of the disciplines to be covered and the desire to maintain the number of panelists to 4, respondents will be required to demonstrate both capacity and capability in a minimum of four disciplines, except for suppliers of employment law advice.

Conflicts of interest

Respondents will be required to declare any actual or perceived conflicts of interest and their proposed management of the conflict. The probity officer for the procurement (to be advised) will be responsible for reviewing the conflicts in the first instance. If a conflict is deemed to be unacceptable this will constitute a 'fail', however the ability to discuss the conflict with the respondent will be retained.

The panel will use the following rating scale to evaluate suppliers' bids against the criteria.

- Scoring in increments of 5 applies
- A score of less than 40 for one attribute may exclude the respondent (at the discretion of the TET)

Description	Definition	Rating
Excellent	Exceeds the requirement. Exceptional demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services. Response identifies factors that will offer potential added value, with strong supporting evidence.	90-100
Good	Satisfies the requirement with minor additional benefits. Above average demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services. Response identifies factors that will offer potential added value, with supporting evidence.	70-80
Acceptable	Satisfies the requirement. Demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with supporting evidence.	50-60
Minor reservations	Barely adequate. Minor reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with little or no supporting evidence.	30-40
Serious reservations	Satisfies the requirement with major reservations. Considerable reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with little or no supporting evidence.	10-20
Unacceptable	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the supplier has the ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with little or no supporting evidence.	0

Innovation

Suppliers may have new and innovative ways to deliver against the specifications. The agency will accept alternative proposals on this basis.

Due diligence

The following verification matrix will be used as part of the evaluation and due diligence process. The table shows how elements of the criteria will be verified by the panel.

Verification table

Evaluation and due diligence options	Criteria		
	Fit for purpose	Ability to deliver	Value for money
Written offer/tender documents	✓	✓	✓
Buyer clarifications of offer	✓	✓	✓
Reference checks	✓	✓	✓
Practicing Certificates	✓	✓	✓
Presentation (TBC)	✓	✓	✓
Companies office check	✓		
Accepts proposed contact conditions	✓		

Additional process

Following the evaluation of merits each short-listed supplier *may* be invited to attend an interview with the panel.

Contract type

The short-listed supplier will be offered the Councils Legal Panel contract with standard terms and conditions based on a bespoke set of terms and conditions drafted for this procurement. The proposed contract term is three years with options to extend (3+1+1).

The quality standards / key performance indicators for measuring the supplier's performance are:

Performance Requirement	Metric Requirements
Service Delivery Performance	Performance across: -Quality (accuracy, fit for purpose – right sized and specific advice for the problem statement / legal challenge) -Technical (technically and factually accurate and correct advice) -Service Delivery (the correct, accurate advice, delivered in full, on time to the clients requirements, every time).
First 15 minutes free consultation	First 15 mins phone call consultations free of charge
Response to enquiries	Turnaround response time of 3 hrs for formal written enquiries. Negotiated timeframes for compilation of reviews, judgment and advisory requirements
Invoicing	Invoices sent to QLDC in a format that enables clear visibility of effort completed in the previous month period with all reference details in full.
Monthly Summary Report	Monthly report completed in full, accompanying the Invoice with a progress breakdown and all completed aspects noted and all WIP described.
Quarterly VC or Site Progress Meetings	30 Min quarterly meeting to check in on progress and contract health.

Training and professional development support	Quarterly– Six Monthly dedicated training sessions on case law and specific compliance and legislation topics
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The proposed contract terms and conditions are attached at *Appendix 2*.

Transitioning to new supplier

In the event that this procurement results in the selection of new panelists a transition plan will be developed to actively manage the changeover. Transition arrangements will also be addressed during the negotiations with the new supplier. The transition will have a minor impact on ongoing service delivery but all preexisting service delivery projects will be completed in full.

Managing implementation

- The responsibility for managing delivery under the contract and supplier relationship management will pass to the legal services team on the signing of the contract. This person will develop a contract and relationship management plan in consultation with the successful supplier.

Risk management

Overall this procurement is deemed to be medium value with medium risk. Key risks have been assessed against the risk framework detailed at *Appendix 3*. They have been assessed on the basis of likelihood (L) and consequence (C).

The key for the following risk tables is:

- likelihood (L): R = rare U = unlikely P = possible L = likely A = almost certain
- consequence (C): N = negligible L = low M = moderate H = high E = extreme.

Key risks in the procurement process

Risk	L	C	Rating	Mitigation action	Responsible
A large volume of responses are received making evaluation time consuming and/or difficult to establish four preferred panelists.	P	M	Medium	While maintaining a single stage process, introduce an initial quality evaluation to shortlist a number of suppliers who will be asked to give presentations based on feedback provided and clarifications sought by the evaluation team.	TET Chair
A supplier's team at the time of submitting a proposal change significantly following appointment to the panel	P	M	Medium	A personnel change management process will be included in the Base Agreement. This will include provisions for conditional acceptance of the change and additional performance monitoring as appropriate.	TET Chair
Four panelists are insufficient to cover all disciplines required by Council.	P	M	Medium	Pass/fail requirement to respond to a minimum of four disciplines. Suppliers will be required to rank their own strengths in terms of ability in each discipline.	TET Chair
Conflicts of interest preclude potential suppliers, in particular those with a strong local presence.	P	M	Medium	A mandatory description of any conflicts of interest and the respondent's proposed management of the conflict shall be requested in the RFP.	TET Chair
Due to conflicts of interest unable to be effectively managed only large, remote firms are eligible for consideration	P	M	Medium	Demonstration of the supplier's commitment to maintain an impression of a local presence is to be a specific requirement of the proposal.	TET Chair

Probity management

It is essential that the agency demonstrates ethics and integrity in its procurements. This means:

- Acting fairly, impartially, and with integrity
- Being accountable and transparent
- Being trustworthy and acting lawfully
- Managing conflicts of interest
- Protecting the supplier's commercially sensitive and confidential information.

Probity in this procurement will be managed by:

- Ensuring compliance with the Council's code of conduct
- Ensuring that financial authority for the procurement is approved before proceeding to tender
- Ensuring everyone involved in the process signs a confidentiality agreement and declares any actual, potential or perceived conflict of interest
- Identifying and effectively managing all conflicts of interest
- Ensuring that all bids are opened at the same time and witnessed
- Treating all suppliers equally and fairly
- Providing each supplier with a comprehensive debrief at the end of the tender process.

Contract delivery

The responsibility for managing delivery under the contract and supplier relationship management will pass to the General Counsel, Brendan Peet, on the signing of the contract. This person will develop a contract and relationship management plan in consultation with the successful suppliers.

Appendix 1: Specification of requirements

Category	Service Delivery Requirements
Environmental and Resource Management Act (RMA) including review of the District Plan	<p>District Plan Policy:</p> <ul style="list-style-type: none"> • Legal advice on proposed changes and amendments to the district plan including the implementation of other planning instruments (such as national policy statements) • Representing Council in hearings and appeals concerning the district plan and other matters including intensification planning and streamlined planning processes <p>Resource Consent Applications:</p> <ul style="list-style-type: none"> • Reviewing and advising on resource consent appeals • Representing Council in resource consent hearings and appeals <p>Appeals and Judicial Review:</p> <p>Representing Council in judicial review proceedings</p> <p>Notices of Requirement:</p> <ul style="list-style-type: none"> • Strategic advice to assist Council; • Advice to internal Council clients on relevant RMA processes; • Representation at Council hearings and Court processes including mediation and hearings
Regulatory	<p>Compliance and enforcement:</p> <p>Legal assistance with enforcement and compliance including prosecution of offences under the Building Act, Dog Control Act, Resource Management Act, Local Government Act and other relevant legislation.</p> <p>Policy - Advice relating to Bylaws under the Local Government Act for proposed Bylaws and Bylaw reviews</p> <p>Enforcement of Bylaws under the Local Government Act</p> <p>Public Works Act matters – acquisitions, representation in Court proceedings</p>
Infrastructure Delivery (commercial transactions on large scale construction projects and consenting)	<p>Review and updates for the NZS 3910/16 contracts</p> <p>Review and updates for Minor Works Agreements</p> <p>Review and updates for ACENZ CCCS forms of Agreements</p> <p>Development agreements between Council and developers for delivery and vesting of infrastructure</p> <p>Negotiate contractor tags and departures</p> <p>Advice and drafting for bespoke construction contracting arrangements</p> <p>Advice on variations and EoTs</p>
Public Policy	<p>General policy advisory spanning central Government policy updates / changes and amendments.</p> <p>Providing recommendations and reviews on policy changes impacting or affecting Council</p>
Commercial	<p>Review and update standard Service Agreement(s)</p> <p>Contract advisory and drafting for bespoke commercial agreements</p> <p>Competition and regulatory advisory</p> <p>Events and media</p>
Dispute Resolution and Litigation	<p>Complex commercial disputes</p> <p>Construction disputes advisory</p> <p>Strategy and alternative dispute resolution pathways</p>
Property and Conveyancing	<p>Property transactions</p> <p>Easements and public works</p> <p>Leasing and licenses</p>

Appendix 2: Proposed contract terms and conditions

Legal Panel Agreement

Appendix 3: Risk register

Key risks have been assessed using this risk analysis framework.

You may use this standard framework or replace it with your agency's framework.

LIKELIHOOD of risk happening	Almost certain	amber	amber	red	red	red
	Likely	yellow	amber	amber	red	red
	Possible	yellow	yellow	amber	amber	red
	Unlikely	green	yellow	yellow	amber	amber
	Rare	green	green	yellow	yellow	amber
		Negligible	Low	Moderate	High	Extreme
CONSEQUENCE if the risk happens						

Diagram: Risk analysis framework