



SUPPLIER CODE OF CONDUCT

Introduction

The Bay of Plenty Regional Council (**BOPRC**) is strongly committed to observing the highest ethical standards in all of its procurement and contracting activities. As such, this Code of Conduct for Suppliers (**Code of Conduct**) has been prepared to provide a clear summary of BOPRC's expectations from those that it deals with.

BOPRC procurement and contracting ethics focuses on no tolerance of unlawful behaviour or corruption, ensuring any conflicts of interest are declared, and that suppliers honestly represent their capabilities. Transparency and accountability should be adhered to in all activities.

Suppliers must familiarise themselves with this Code of Conduct to ensure successful working relations with the BOPRC. Please note, however, that in the event of any conflict between the terms of this Code of Conduct and the terms of any procurement/contractual documentation (as the case may be), the latter terms shall prevail.

Who this Code of Conduct applies to

This Code of Conduct applies to the procurement and contracting of businesses (including any directors, employees or related companies of these businesses) and individuals that supply goods and services to BOPRC (**Suppliers**).

Regulatory compliance

BOPRC takes its health and safety and environmental responsibilities very seriously. Prior to tendering for, or entering into, a contract (as the case may be), Suppliers must advise BOPRC whether they have, within the previous five (5) years, breached the provisions of the Resource Management Act 1991 (including any infringement offences, abatement notices, enforcement orders or convictions under the Act) or any health and safety law, regulation or code of practice.

Unlawful and unacceptable behaviour

Suppliers must not:-

- Threaten or abuse any staff or elected member of BOPRC.
- Make disparaging statements about BOPRC or make comments that may be perceived to damage BOPRC's reputation.
- Be involved in unethical behaviour, or unlawful or criminal activities, or been subject to bankruptcy or insolvency regimes.

Examples

What might constitute unlawful or unacceptable behaviour? Below are some examples of unlawful or unacceptable behaviour. These should not be taken to be a complete list and are for guidance only:

- A Supplier is tendering to renew a contract which it currently holds, and tells BOPRC staff or councillors that if it doesn't get the job again there will be detrimental consequences for them.
- Telling a newspaper reporter that in the Supplier's opinion BOPRC should have had a job done a better way, the 'better' way being the Supplier's personal view.
- A Supplier takes back to its premises left over/unused materials ordered for a BOPRC job, but which it intends to use for other customer's work, and still charges BOPRC for the materials.

Corruption and Conflict of Interest

Suppliers must conduct their business in accordance with the highest ethical standards, including as they relate to bribery, corruption and unacceptable business practices. In particular, Suppliers:-

- Shall not, directly or indirectly, offer any BOPRC staff member money, goods or a service as consideration for, or in expectation of, a favourable decision, information, opinion, recommendation, or any other form of favouritism.
- Shall not, directly or indirectly, offer, give, or agree or promise to give, to any BOPRC staff member a gratuity for the benefit of, or at the direction or request of, any BOPRC staff member.
- Must immediately inform BOPRC's Chief Financial Officer in the event that any BOPRC staff member solicits, obtains, or has made an attempt to obtain, any gratuity for himself or herself or for any other persons.
- Must immediately declare if any of its staff have, or had, any relative or someone they have a close personal relationship with employed with BOPRC.

Examples

What might constitute corruption or a conflict of interest? Below are some examples of corruption and conflicts of interest. These should not be taken to be a complete list and are for guidance only:

- A Supplier offering to do private work at no or little cost to a BOPRC staff member.
- A Supplier's son or daughter is hired by BOPRC, in which case the Supplier must inform the contact person for the goods or services it supplies at BOPRC to ensure there will be no conflict of interest with their son or daughter's role at BOPRC.
- If a BOPRC staff member asks for a "favour" that will involve the Supplier carrying out work for the staff member at no cost, then the Supplier must inform the BOPRC's CFO immediately.

Representation from Suppliers

Suppliers must ensure that they:-

- Comply with all rules, regulations and statutory requirements relating to the provision of the goods and services to BOPRC.
- Do not act in cohort with other suppliers or agents when participating in a bid.
- Are a duly authorised/certified provider of the supplied goods or services and shall not, expressly or impliedly, hold itself out to be an agent or representative of a third party provider of the same goods or services.
- Will only supply products that are of merchantable and satisfactory quality.
- Possess the necessary capabilities, equipment and suitable place of business to perform its obligations.
- Shall not subcontract or outsource any portion of the goods or services unless contractually entitled to.
- Shall maintain the highest standards of integrity and quality of work at all times.

Examples

What might constitute further unacceptable conduct by way of representations from Suppliers?
Here are some examples of unacceptable actions by Suppliers:

- Two catering suppliers are regularly engaged to provide food for BOPRC events. At a catering equipment store they meet and discuss their work for BOPRC. They decide that it would be better for both of them if they share the work rather than continue to compete on every quote for an event submitted. They agree to keep in touch and coordinate who is going to put in the 'best' quote for each event to ensure they share the work at good rates.
- A Supplier puts in a bid to supply electrical equipment for upgrading certain technical equipment used by BOPRC. The Supplier knows he can get a cheaper price for the equipment by sourcing it from a factory overseas although he does not know whether they are an authorised supplier. He can source the equipment from an authorised supplier in New Zealand that can certify as to the safety of the equipment. The Supplier's bid is based on it sourcing the equipment from overseas and is successful. The Supplier does not disclose that the equipment may not be from an authorised supplier or meet applicable New Zealand safety standards.
- A Supplier is constructing a building for BOPRC. The Supplier experiences staff difficulties and the time lost in replacing new staff has meant that the Supplier has lost time on the job which has increased the costs. The Supplier decides to recover its losses by replacing a particular high quality material that was to be used in the building with another similar lower cost material but which is of average quality and therefore may not perform to the same standard as the original materials.

Communication Channels

BOPRC has established a secure communication channel to enable Suppliers to raise any concerns confidentially and responsibly. If Suppliers have questions about the Code of Conduct or wish to report questionable behaviour or a possible violation of the Code of Conduct, they are encouraged to contact the Procurement Team Leader on 0800 884 880.

The failure to disclose an event where there is an obligation to do so, may have a greater negative outcome than the actual event disclosed itself would have. It is preferable that Suppliers err on the

side of caution, and raise any concern they have about a potential conflict of interest, corruption, or any unlawful or unacceptable behaviour.

Breach

In the event of a breach of this Code of Conduct, BOPRC reserves the right to take any and all remedies available to it pursuant to its procurement/contractual documentation (as the case may be).

SUPPLIER DECLARATION

Option A – no items to disclose

..... declares that:

[NAME OF CONTRACTOR]

- (a) He/She/It has read and will comply with the Bay of Plenty Regional Council’s Code of Conduct for Suppliers; and

- (b) He/She/It, and any of its directors, employees or related companies, have not, within the previous five (5) years, breached the provisions of the Resource Management Act 1991 (including any infringement offences, abatement notices, enforcement orders or convictions under that Act) or the provisions of health & safety law, regulations or codes of practice.

Signed: _____

Name: _____

Position: _____

Date: _____

SUPPLIER DECLARATION

Option B – Disclosure of incidents within the past five years

..... declares that:
[NAME OF CONTRACTOR]

- (a) He/She/It has read and will comply with the Bay of Plenty Regional Council’s Code of Conduct for Suppliers; and

- (b) He/She/It, and/or any of its directors, employees or related companies, have, within the previous five (5) years, breached the provisions of the Resource Management Act 1991 (including any infringement offences, abatement notices, enforcement orders or convictions under the Act) or the provisions of a health and safety law, regulation or code of conduct as follows:

Type of incident: _____

Date of Incident: _____

Details: _____

Signed: _____

Name: _____

Position: _____

Date: _____

Note: BOPRC will take into account any incidents when determining whether to engage the supplier, and may seek further information relating to the incident. BOPRC reserves the right, in its sole discretion, to not engage the supplier if it considers it inappropriate to do so due to the incident. Factors BOPRC will consider in determining whether it would be inappropriate to engage the supplier include: the type of incident, how recent it was, its severity, and its relevance to the goods/services BOPRC are currently procuring.