


	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

File Reference:	Finance	Classification:	Public		
First Issued:		Review Frequency:	Annually		
Legislation:	Local Government Act 1999; Trade Practices Act 1974; Whistleblowers Protection Act 1993				
Relevant Policies:					
Related Procedures:					
Responsible Officer:				Chief Executive Officer	Signed:
Adopted by Council :				20/04/2022	

GENERAL STATEMENT

This document sets out the Council’s policy for the acquisition of goods and services and carrying out of the procurement principles. This policy applies to the procurement of all goods, equipment and related services, contraction contracts and service contracts.

Policy Detail

1. Introduction

- 1.1. In compliance with Section 49 of the Local Government Act 1999 (Act), staff should refer to this policy (Policy) when acquiring goods and services.
- 1.2. Section 49 of the Act requires Council to prepare and adopt policies for contracts and tenders on:
 - 1.2.1. the contracting out of services,
 - 1.2.2. competitive tendering and the use of other measures to ensure that services are delivered cost-effectively,
 - 1.2.3. the use of local goods and services; and
 - 1.2.4. the sale or disposal of land or other assets.
- 1.3. Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
 - 1.3.1. obtaining value in the expenditure of public money;
 - 1.3.2. providing for ethical and fair treatment of participants; and
 - 1.3.3. ensuring probity, accountability and transparency in all operations.
- 1.4. This Policy seeks to:
 - 1.4.1. define the methods by which the organisation can acquire goods and services;
 - 1.4.2. demonstrate accountability and responsibility to ratepayers;
 - 1.4.3. be fair and equitable to all parties involved;
 - 1.4.4. enable all processes to be monitored and recorded; and
 - 1.4.5. ensure that the best possible outcome is achieved for the organisation.

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

1.5. However, this Policy does not cover:

- 1.5.1. non-procurement expenditures such as sponsorships, grants, funding arrangements, donations and employment contracts;
- 1.5.2. the disposal of land and other assets owned by the Council; or
- 1.5.3. the purchase of land by the Council.

2. Policy Objective

Council aims to achieve advantageous procurement outcomes by:

- 2.1. enhancing value for money through fair, competitive, non-discriminatory procurement;
- 2.2. promoting the use of resources in an efficient, effective and ethical manner;
- 2.3. making decisions with probity, accountability and transparency;
- 2.4. advancing and/or working within Council's economic, social and environmental policies;
- 2.5. providing reasonable opportunity for competitive local businesses to supply to Council;
- 2.6. appropriately managing risk; and
- 2.7. ensuring compliance with all relevant legislation.
- 2.8. adopting purchasing practices that encourage the purchase of Australian made goods.

3. Procurement principles

Council must have regard to the following principles in its acquisition of goods and services:

- 3.1. Encouragement of open and effective competition
 - 3.1.1. This includes feedback to unsuccessful participants at the conclusion of the procurement process.
- 3.2. Obtaining Value for Money

This is not restricted to price alone. An assessment of value for money must include, where possible, consideration of:

 - 3.2.1. the contribution to Council's long term plan and strategic direction;
 - 3.2.2. any relevant direct and indirect benefits to Council, both tangible and intangible;
 - 3.2.3. efficiency and effectiveness of the proposed procurement activity
 - 3.2.4. the performance history, quality, scope of services and support of each prospective supplier;
 - 3.2.5. fitness for purpose of the proposed good or service;
 - 3.2.6. whole of life costs;

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

3.2.7. councils internal administration costs

3.2.8. technical compliance issues

3.2.9. risk exposure

3.3. Social, Economic and Environmental Sustainability

Council is committed to maximising the positive impact of its activities to benefit the local community, the economy, and the environment. The Council will endeavour to, at its discretion and to the full extent permitted by law, support local businesses.

Council may give preference to local contractors and suppliers with consideration to:

3.3.1. the creation of local employment opportunities;

3.3.2. increased availability of local servicing support;

3.3.3. increased convenience with communications with the supplier for contract management;

3.3.4. actively promoting to local businesses opportunities to supply to the Council

3.3.5. structuring the purchasing processes to be accessible to all businesses

3.3.6. ensuring, where possible, that specifications and purchasing descriptions are not structured so as to potentially exclude local suppliers and contractors

3.3.7. the short and long term impact of the procurement on local business

3.4. Probity, Ethical Behaviour and Fair Dealing

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

Officers involved in the procurement process will at all times undertake their duties in a professional, ethical, honest and impartial manner, act responsibly and exercise sound judgement by observing the highest standards of integrity, probity and professional conduct in line with the Staff Code of Conduct in which employees are bound.

Under no circumstances is an officer of Council permitted to accept or benefit from any personal incentive or inducement to purchase or for purchasing goods from any company – to do so will be considered a breach of employment conditions and be subject to disciplinary action that may extend to dismissal and possible referral to the Anti Corruption Branch of SA Police

Council is committed to ensuring a fair, transparent and accountable process is applied to the provision of services, purchasing of goods and services and will comply with all relevant legislation.

3.5. Work, Health and Safety

3.5.1. Council is committed to providing and undertaking such measures as to minimise risks (through safe workplace environments, systems of work, plant and substances) of injury/ill health to employees and others while at

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

work and demonstrates a systematic approach to planning and implementation of Work, Health and Safety consistent with the Work, Health and Safety Act 2012 and associated Regulations.

- 3.5.2. Council is dedicated to a contractor management system which provides for the selection of contractors with appropriate safety controls. The exchange of information between the Council and its contractors must facilitate the identification of hazards and risk management. Council will only engage Contractors who can demonstrate an appropriate WHS Management System compliant with the Work, Health and Safety Act (2012) and associated Regulations.

4. Procurement methods

Generally, open and fair competition is best achieved by undertaking a process so that all interested parties have an opportunity to bid. Unless exceptional circumstances exist, there is no provision for any financial compensation or payment for participation in any of the listed procurement methods.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods:

4.1. Direct Purchasing


- 4.1.1. This is where Council purchases from a single source, without first obtaining competing bids.
- 4.1.2. This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.

4.2. Quotations

- 4.2.1. This is where Council obtains quotations from prospective suppliers.
- 4.2.2. Generally, a minimum of two quotations are sought.
- 4.2.3. Where possible, the Council must insist on written quotes.
- 4.2.3.1. If a written quote cannot be obtained, the Council must keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.
- 4.2.4. This method may be suitable for low value, low risk goods and services.

4.3. Request for Quotations (RFQ)

- 4.3.1. This is where Council obtains written quotations from prospective suppliers utilising its RFQ templates as per 4.3.4 and 4.3.5.
- 4.3.2. Generally, a minimum of three written quotations are sought.
- 4.3.3. This method may be suitable for simple, largely price-based purchases.
- 4.3.4. A "Short Form Request for Quotation" can be used for purchases with minimal specifications.

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

4.3.5. A “Long Form Request for Quotation” can be used for purchases with detailed specifications.

4.4. Requests for Expressions of Interest (REOI)

4.4.1. This is where Council issues an open invitation for a proposed goods and/or service.

4.4.2. This method may be used where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to then invite to participate in a tender process.

4.5. Request for Tenders (RFT)

4.5.1. This is where the Council issues a tender for a proposed goods and/or service.

4.5.2. Council may issue a “Select” Request for Tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers.

4.5.3. Otherwise, Council may issue an “Open” Request for Tender.

4.6. Panel contracts

4.6.1. This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

4.6.1.1. a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or

4.6.1.2. the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

4.6.2. Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.


4.7. Strategic alliances

4.7.1. This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

4.7.1.1. LGA Procurement;

4.7.1.2. a purchasing group of which the Council is a member;

4.7.1.3. State Government contracts.

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

5. Considerations For The Council

The appropriate method of procurement will be determined by reference to a number of factors, including but not limited to:

5.1. Value of the Purchase

Value of Purchase (\$)	Acceptable Procurement Methods	Contract Form
Less than \$5,000	<ul style="list-style-type: none"> • Written quote(s) • Direct sourcing / negotiation • Purchase from Council panel contract. • Purchase from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate. • Verbal quote(s) maybe be used in certain circumstances but must be supported by a level of written documentation. 	<ul style="list-style-type: none"> • Purchase Order • Panel Contracts
\$5,001 - \$20,000	<ul style="list-style-type: none"> • Written (informal) quotes from at least two (2) suppliers. • Purchase from Council panel contract. • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate. 	<ul style="list-style-type: none"> • Purchase Order. • Panel Contracts. • Minor Works Contract • Professional Services Agreement.
\$20,001 - \$100,000	<ul style="list-style-type: none"> • Written (formal) quotes from at least three (3) suppliers (RFQ) • Purchase from Council panel contract. • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate 	<ul style="list-style-type: none"> • Purchase Order. (if low level of risk) • Panel Contracts. • Minor Works Contract • Professional Services Agreement.
Greater than \$100,000	<ul style="list-style-type: none"> • Tender Process -Open / Select / Limited (RFT/RFQ/REOI) • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate 	<ul style="list-style-type: none"> • Minor Works Contract • Professional Services Agreement. • Customised contract (High level of risk)

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

Note - Where a procurement relates to a project as defined in Council's Prudential (Project) Management Policy the appropriate Due Diligence Report shall be undertaken before commencement of the project.

The value of the purchase will be calculated as follows:

- single one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
- multiple purchases with same supplier– the gross value, or the estimated gross value, of the purchases (excluding GST); or
- ongoing purchases over a period of time – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- Refer to section 5.10 Cumulative Spend.

5.2. cost of an open market approach versus the value of the acquisition and the potential benefits;

5.3. the particular circumstances of the procurement activity;

5.4. the objectives of the procurement;

5.5. the size of the market and the number of competent suppliers;

5.6. the Council's leverage in the marketplace;

5.7. time constraints;

5.8. use of consultants or seeking technical advice for >\$5,000


5.9. an assessment of the risks i.e., via a formal Risk Assessment, associated with the relevant activity and /or project, including the risk profile of the procurement, any risks associated with the preferred procurement method, with particular reference to WHS risks.

5.10. Cumulative Spend

To support determining Value as per Clause 5.1, Value of the Purchase is identified as the estimated value of the total proposed purchases, including any contract options, extensions and renewals (exclusive of GST), and potential cumulative value of the goods, services or works supplied over a period of time, i.e., 12 months, against a supplier/contractor providing similar works/services.

The cumulative expenditure against all suppliers, contractors and consultants shall be monitored annually by Council to determine whether the appropriate procurement process has been undertaken and/or an alternative procurement method is required to comply with this policy.

Council's Procurement Procedures will outline and support the process of determining the level of risk pertaining to the procurement, the market process and form of contract.

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

5.11. Extension of Period Contracts

Where a period contract has been let and Council has the option to extend that contract past its initial contract period, Council must ensure prior to execution of any extension does not contravene the Principles of this policy and that any extension would not damage the notion of open competitiveness of other potential tenders in the future.

In the event that Council resolves to extend a period contract without the completion of tender process, Council must include in its resolution the reasons for not completing the tender process.

6. Records

Retention of records pertaining to procurement is crucial. Appropriate records must be maintained to provide evidence of decisions made, process undertaken and approvals received, commensurate with the level of complexity of the procurement undertaken.

Records must be maintained utilising Council’s electronic records management system to retain records in accordance with the State Records Act and Council’s Records Management Policy.

7. Exemptions From This Policy


This Policy contains general guidelines to be followed by the Council in its procurement activities. There may instances in which the processes noted will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate.

In certain circumstances, the Chief Executive Officer may waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Chief Executive Officer must record his reasons in writing for waiving application of this Policy.

In circumstances where waiving of this policy has been applied to individual procurement activities greater than \$100,000 those activities be reported to the Council and Audit Committee.

Some examples of when it may be appropriate for the CEO to waive application of this Policy are:

- a) emergency situations threatening life and property;
- b) the supply market is known;
- c) where better value can be achieved by an alternative method;
- d) availability of vendors;
- e) timing constraints;
- f) any other exemptions as documented for probity.

	STATUTORY POLICY	Policy #	4.4 / 9
	CONTRACTS, TENDERS & PURCHASING POLICY	Last reviewed:	April 2022
		Next review	May 2023

8. Delegations

- 8.1. The CEO will determine appropriate procurement thresholds for inclusion in delegation instruments, which will be reviewed as required.
- 8.2. Approval to undertake a procurement requires confirmation that budget funds are available and uncommitted within the appropriate budget line.
- 8.3. Delegations pertaining to expenditure and purchasing are recorded in the Council's Delegations Register.

9. Further Information

- 9.1. This Policy will be kept on the Council's website for the public to view.
- 9.2. This Policy will be reviewed on an annual basis or when legislative change requires it.
- 9.3. However, Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).
- 9.4. This Policy does not supersede any directives provided to Council Officers from any adopted Policy of Council. If another policy of Council, states a specified procurement process, this process will be adhered to.
- 9.5. This policy is to be supported by a Procurement Procedure and associated template documentation.