



**1. SCOPE**

1.1 This policy applies to the acquisition of all goods and services from suppliers external to Council. The policy excludes services provided by staff employed via payroll and investments.

**2. PURPOSE**

2.1 To provide an overarching framework and control for the purchase of goods and services to Council.

**3. POLICY STATEMENT**

**3.1 Purchasing Principles**

The following principles will guide Council decision-making when making procurement decision.

Principle	Definition	What We Will Do
<b>Value for Money</b>	The Council will ensure that it is buying at the most competitive price available, but value for money does not mean buying at the lowest price.	<ul style="list-style-type: none"><li>• The contribution the good or service makes to achieving Council’s strategic plans or policies;</li><li>• the value of the acquisition and potential benefits against the costs of that purchase;</li><li>• an assessment of risks associated with the purchase including the preferred procurement method;</li><li>• how well goods or services meet needs;</li><li>• maintenance and running costs over the lifetime of a product;</li><li>• disposal value;</li><li>• time constraints;</li><li>• the impact of the procurement decision on the local economy, such as through industry development and employment creation;</li><li>• the impact of the procurement decision on the environment, such as through minimising waste and reducing demand for goods and services which have a direct impact on the environment (such as printing, utilities and travel); and</li><li>• the impact of the procurement decision on the society (social value generated), such as through the elimination of discrimination and the promotion of equal opportunity, training, and other identified social objectives.</li></ul>



PROCUREMENT POLICY

Principle	Definition	What We Will Do
<b>Enhancement of the capabilities of the local business industry</b>	The Council will ensure that where local capacity exists it will seek to engage the local market and encourage participation in tender and quotation processes.	In practice this means that Council will: <ul style="list-style-type: none"> <li>actively seek quotes from local businesses that can provide quality goods and or services;</li> <li>where local capability exists, ensure that discretionary elements of specifications do not prevent local business from competing; and</li> <li>not give preferential treatment to local service providers where it cannot be reasonably justified.</li> </ul>
<b>Open and Effective Communication</b>	The Council will ensure that the purchasing process is impartial, open and encourages competitive offers.	In practice this means that Council will: <ul style="list-style-type: none"> <li>use transparent and open purchasing processes so that service providers and the public are able to have confidence in the outcomes;</li> <li>adequately test the market through seeking quotations or via tender as appropriate;</li> <li>avoid biased specifications;</li> <li>treat all service providers consistently and equitably; and</li> <li>ensure a prompt and courteous response to all reasonable requests for advice and information from service providers.</li> </ul>
<b>Ethical Behaviour &amp; Fair Dealing</b>	The Council will promote procurement practice that is legal, ethical, fair and unbiased.	<ul style="list-style-type: none"> <li>Comply with legal requirements;</li> <li>conduct all business in the best interests of the Council;</li> <li>be as effective and efficient as possible when sourcing, ordering and paying for goods and services;</li> <li>expect individuals involved in procurement processes to declare and act upon any conflicts of interest that may be seen to influence impartiality;</li> <li>ensure that specifications are clear;</li> <li>ensure that any Service Provider is not provided with information or clarification that is not provided equally to all service providers;</li> <li>maintain confidentiality at all times in dealing with service providers;</li> <li>ensure that conditions of contract are not excessively onerous; and</li> <li>decline gifts or benefits offered by those involved in the procurement process, particularly from service providers.</li> </ul>

<b>Principle</b>	<b>Definition</b>	<b>What We Will Do</b>
<b>Environmental and Sustainability Considerations</b>	This principle means that Council when making a purchase will consider the potential environmental impact of the product or services to be purchased and take into consideration the longer-term sustainability impacts of the purchase.	<ul style="list-style-type: none"> <li>• Undertake an assessment of the life cycle costs of the purchase with a view to minimising the use of energy, fuel and like inputs;</li> <li>• Consider the source of the materials incorporated in the purchase and favour products that are produced using sustainable resources;</li> <li>• Contract documentation requires that contractors prepare an environmental management plan to mitigate environmental impacts of construction work; and</li> <li>• Council will comply with relevant environmental legislation in tenders and contracts.</li> <li>• Council will consider the use of recyclable materials in its decision making.</li> </ul>

### **3.2 Delegated Purchasing Officers**

Under Section 74 of the *Local Government Act 1993*, Council delegates to the General Manager the responsibility for expending funds within the Council estimates (budget).

The General Manager maintains a Financial Delegation Schedule of officers to whom he has delegated the authority to approve purchases within their relevant areas. 'Delegated officers' are each issued with an Instrument of Delegation which specifies the accounts and dollar limits for which they have delegated authority.

Only delegated officers with the written authority to approve the acquisition of goods and/or services may commit Council to the purchase of goods or services.

It is the responsibility of the delegated officers to ensure:

- (a) The approval to purchase goods and services complies with this policy.
- (b) There is sufficient budget availability for the purchase of goods and services.
- (c) Appropriate documentation is provided to the finance department on a timely basis to ensure that payment can be made within the suppliers trading terms.

### 3.3 Quotation and Tender Requirements

The following quotation and tender requirements will be utilised based on the total dollar value of the purchase:

<b>Purchase Value (exc. GST)</b>	<b>Quotation &amp; Tender Requirements</b>	<b>Allowable Purchase Method/s</b>
Below \$1,500	No formal quotation requirements.	Petty Cash (purchases below \$75) Credit Card Invoice Purchase Order
\$1,500 - \$15,000	At least 2 quotations must be obtained.  An approved purchasing arrangement may be used (LG Vendor Panel or Multi-use Register which includes suppliers that have already been subject to a previous a competitive assessment process).	Credit Card Invoice Purchase Order
\$15,000 - \$100,000	At least 3 quotations must be obtained.  An approved purchasing arrangement may be used (LG Vendor Panel or Multi-use Register which includes suppliers that have already been subject to a previous a competitive assessment process).	Invoice Purchase Contract Purchase Order
\$100,000 - \$250,000	Formal public tender; or an approved purchasing arrangement may be used (based on previous a competitive assessment process).  The General Manager will decide on behalf of Council if tenders will be invited.  Purchases of this value must be approved by the General Manager.	Purchase Contract
Exceeds \$250,000	Formal Public Tender (unless exempt under the legislation)  To be approved by Council.	Purchase Contract

Council will not split a purchase into two or more transactions or contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders.

### 3.4 Reporting

The General Manager will report to Council all contracts for the supply or provision of goods and services valued at or above \$100,000 excluding GST awarded or entered each month, including extensions granted.

In accordance with Section 72 (1)(e) of the *Local Government Act 1993* contracts over \$100,000 will be included in the Annual Report.

### 3.5 Making a Purchase Procedure

The following procurement overview is provided to give a brief outline on the process way in which Council procures routine goods and services:

- 1) plan the purchase (which includes the selection of the most appropriate purchasing method);
- 2) prepare the relevant documents (e.g. quotation, tender or expression of interest);
- 3) invite and receive offers;
- 4) evaluate those offers; and
- 5) advise the successful bidder and offer to debrief any unsuccessful bidders.

Requirements for each step in the procurement process is included in the attached appendices.

### 3.6 Disposals

Disposals are to be conducted so that the best return to Council is achieved.

#### 3.5.1 Disposals less than \$5,000

Council will dispose of items with a disposal value of less than \$5,000 at the discretion of the General Manager.

Council will only dispose of items that cannot be reused or recycled and with no commercial use, community use or appreciable market value by dumping them at approved refuse sites or by destruction.

#### 3.5.2 Disposals greater than \$5,000

Council shall dispose of items with an estimated disposal value in excess of \$5,000 by way of tender, public auction, or trade-in.

When disposing items by tender Council may choose to advertise the item for disposal in specialist newspapers or journals, or in the appropriate classified section of the local newspaper (e.g. boats and marine if disposing of a boat), if these are more likely to attract appropriate interest.



**LEGISLATIVE REQUIREMENTS**

*Local Government Act 1993 – section 74, and Division 2A*

*Local Government (General) Regulations 2015 – Part 3 – Tendering and Contracting*

**RELATED DOCUMENTS**

Appendix to this Policy:

- Policy Appendix A – Procedure for Making a Purchase up to \$100,000
- Policy Appendix B – Procedure for Making a Purchase Valued of \$100,000 or More

**OTHER RELATED POLICIES**

Code for Tenders and Contracts

Petty Cash Policy

Credit Card Policy

Customer Service Charter

External Documents:

Electronic Transactions Act 2000

Australian Standards – AS 2124 and AS 4000



**Policy Appendix A - Procedure for Making a Purchase up to \$100,000**

**Step 1 Planning the Purchase**

Prior to the purchase of goods and services there must be sufficient justification to demonstrate that there is a need for the goods and services.

Only delegated officers with the written authority to approve the acquisition of goods and/or services are permitted to commit Council to the purchase of goods or services.

Delegated officers have responsibility to ensure:

- (a) The approval to purchase goods and services complies with this policy.
- (b) There is sufficient budget availability for the purchase of goods and services.
- (c) Appropriate documentation is provided to the finance department on a timely basis to ensure that payment can be made within the suppliers trading terms.

There are a number of procurement thresholds that require different levels of involvement in planning and executing the purchase. The following table outlines the quotation and tender requirements based on the estimated value of the purchase.

**Quotation and Tender Requirements**

The following quotation and tender requirements will be utilised based on the total dollar value of the purchase:

<b>Purchase Value (exc. GST)</b>	<b>Quotation &amp; Tender Requirements</b>
Below \$1,500	No formal quotation requirements.
\$1,500 - \$15,000	At least 2 quotations must be obtained. An approved purchasing arrangement may be used. (LG Vendor Panel or standing contract for multiple use that has already been subject to a previous a competitive assessment process).



**Policy Appendix A - Procedure for Making a Purchase up to \$100,000**

	\$15,000 - \$100,000	At least 3 quotations must be obtained. An approved purchasing arrangement may be used. (LG Vendor Panel or standing contract for multiple use that has already been subject to a previous a competitive assessment process).	
	\$100,000 - \$250,000	Formal public tender; or an approved purchasing arrangement may be used (based on previous a competitive assessment process). The General Manager will decide on behalf of Council if tenders will be invited. Purchases of this value must be approved by the General Manager.	
	Exceeds \$250,000	Formal Public Tender. (unless exempt under the legislation). To be approved by Council.	
	<b>Below \$1,500</b>	<b>\$1,500 - \$15,000</b>	<b>\$15,000 - \$100,000</b>
<b>Step 2 Purchase Documentation</b>	<p><b>Purchasing documentation</b></p> <p>No formal requirements except that approved delegations are observed.</p> <p>Small, low cost items under \$75 may be purchased as per the Petty Cash Policy.</p>	<p><b>Purchasing documentation</b></p> <p>Council will undertake most purchases below \$15,000 on a verbal basis.</p> <p>At least 2 quotations must be obtained and documented on a <u>Purchase Decision Form</u> to substantiate the purchasing decision.</p> <p>Council may choose to provide suppliers with a written specification and request a written quotation.</p>	<p><b>Purchasing documentation</b></p> <p>The <u>Request for Quotation Form</u> is a document formally inviting offers from businesses to provide a specified good or service.</p> <p>Council's quotation documents will include all terms and conditions of quotation, together with a clear description of the goods or services required, and the details of any applicable Council policies.</p> <p>The complexity of the documentation will depend upon the nature and value of the purchase.</p>



Policy Appendix A - Procedure for Making a Purchase up to \$100,000

			<p>Generally, the RFQ documentation will consist of:</p> <p><b>a) Conditions of Quotation</b> – set out the terms under which Council will receive and evaluate offers. The conditions will usually include:</p> <ul style="list-style-type: none"><li>i) evaluation criteria and a brief outline of the evaluation methodology to be used;</li><li>ii) closing date, time and place of lodgement;</li><li>iii) Council's contact details;</li><li>iv) pricing requirements (eg: the price should exclude GST);</li><li>v) relevant Council policies and principles;</li><li>vi) the entitlement of unsuccessful bidders to be debriefed; and/or</li><li>vii) information about the Council's complaints process.</li></ul> <p><b>b) Specification</b> – the specification clearly, accurately and completely describes the essential requirements of the goods or services being purchased. It is the basis of all offers and is the foundation for the contract. The specifications will usually include:</p> <ul style="list-style-type: none"><li>i) functional requirements;</li><li>ii) performance requirements; and</li><li>iii) technical requirements.</li></ul>
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Policy Appendix A - Procedure for Making a Purchase up to \$100,000

	Below \$1,500	\$1,500 - \$15,000	\$15,000 - \$100,000
<b>Step 3 Inviting Offers</b>	No formal requirements.	<p><b>Inviting offers</b> Council will abide by the following procedures when inviting verbal quotations:</p> <ul style="list-style-type: none"> <li>a) provide each supplier with the same information and will give each supplier the same amount of time to prepare a quote; and</li> <li>b) seek at least one verbal quotation from a local business (if available).</li> </ul> <p><b>Offers</b> Council will hold details of any quotation received prior to the closing time in a secure location to maintain confidentiality, to ensure probity and to protect the individuals involved from claims of unfair practices.</p> <p>All quotations that the Council receives will be clearly noted with the time and date of receipt and recorded in an appropriate schedule or register.</p> <p>The Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.</p>	<p><b>Inviting offers</b> Council will follow the following procedures when inviting written quotations:</p> <ul style="list-style-type: none"> <li>a) where possible, seek at least three (3) written quotations of which a minimum of one (1) quotation will be sought from a local business if available;</li> <li>b) in some cases, choose to advertise a quotation if advantageous to do so;</li> <li>c) where appropriate, send the invitation to quote directly to identified businesses (such as businesses that already provide the service, and/or businesses identified during the market research phase);</li> <li>d) issue the request for quotation documentation either by mail or by email;</li> <li>e) when issuing a request for quotation to a business, the details of that business will be recorded. The details recorded include: <ul style="list-style-type: none"> <li>i) name of business;</li> <li>ii) address;</li> <li>iii) contact person;</li> <li>iv) email; and</li> <li>v) telephone;</li> </ul> </li> <li>f) the time the Council provides to bidders to respond to the request for quotation will depend largely upon the nature and the complexity of the purchase, but equal time will be given to all businesses requested to quote; and</li> </ul>



**Policy Appendix A - Procedure for Making a Purchase up to \$100,000**

	Below \$1,500	\$1,500 - \$15,000	\$15,000 - \$100,000
			g) exemption from seeking quotations will only be granted at the discretion of the General Manager.
<b>Step 4 Evaluating Offers</b>		<p><b>Evaluating offers</b> When evaluating verbal quotations Council will do so with the objective of identifying the offer that best meets our requirements and provides the best value for money. When evaluating quotations, we take into consideration the following aspects of a bid:</p> <ul style="list-style-type: none"> <li>a) value for money;</li> <li>b) estimated useful life;</li> <li>c) disposal value;</li> <li>d) maintenance requirements and costs;</li> <li>e) price;</li> <li>f) compliance with quotation specifications;</li> <li>g) quality, delivery, and service;</li> <li>h) the full benefits of sourcing locally;</li> <li>i) the consequences, including possible risks, of entering into a contract where there is one supplier, or a limited number of suppliers, that can provide and maintain the particular product over its lifetime; and</li> <li>j) any relevant legislative requirements and Council policies, codes and procedures.</li> </ul>	
<b>Step 5 Notification of Successful and Unsuccessful Bidders</b>		<p><b>Notification of successful and unsuccessful bidders</b> Once the preferred quote is selected and all relevant Council approvals to proceed with the purchase have been granted, Council's Contact Officer shall contact the preferred supplier to notify them that they have been successful, including an authorised purchase order.</p>	<p><b>Notification of successful and unsuccessful bidders</b> Once the preferred bid is selected and all relevant Council approvals to proceed with the purchase have been granted, Council shall contact the preferred provider to notify them that they have been successful.</p>



**Policy Appendix A - Procedure for Making a Purchase up to \$100,000**

	<b>Below \$1,500</b>	<b>\$1,500 - \$15,000</b>	<b>\$15,000 - \$100,000</b>
		After the preferred bidder has been notified, Council may notify all unsuccessful bidders.	After the preferred bidder has been notified, Council may notify all unsuccessful bidders if appropriate.  Council will advise the unsuccessful bidders in writing of: a) the bid outcome; b) the successful bidder; and c) the term of the contract.  All unsuccessful bidders will be offered a debriefing session.
<b>Step 6 Ensure Documentation Registered</b>	The completed <u>Purchase Decision Form</u> and/or the completed <u>Request for Quotation Form</u> must be registered in ECM under:  FINANCIAL MANAGEMENT - AUTHORISATIONS- PROCUREMENT EVALUATION FORMS		



**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

**Step 1 Planning the Purchase**

Prior to the purchase of goods and services there must be sufficient justification to demonstrate that there is a need for the goods and services.

Only delegated officers with the written authority to approve the acquisition of goods and/or services are permitted to commit Council to the purchase of goods or services.

Delegated officers have responsibility to ensure:

- (a) The approval to purchase goods and services complies with this policy.
- (b) There is sufficient budget availability for the purchase of goods and services.
- (c) Appropriate documentation is provided to the finance department on a timely basis to ensure that payment can be made within the suppliers trading terms.

**Quotation and Tender Requirements**

The Act and Regulations require Council to invite tenders for any contract it intends to enter into for the supply or provision of goods or services valued at or above \$250,000 (excluding GST).

Council or the General Manager may also determine that tenders should be called in certain circumstances as appropriate, where the estimated value of the purchase is less than the prescribed amount. The General Manager will make a determination on behalf of Council if tenders will be invited for any contracts valued at between \$100,000 and \$250,000 (excluding GST).

Where a determination is made not to undertake a tender process, a formal quotation process must be undertaken using the Policy Appendix A – Procedure for Making a Purchase Valued at \$100,000 or More.

Council will not split a purchase into two or more transactions or contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders.

**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

**Step 2 Purchase Documentation**

**Purchasing documentation**

Council's Request for Tender Form is a document formally inviting offers from businesses to provide specified goods or services. Council's Request for Tender documentation usually consists of four main parts. These four parts are:

- a) **Conditions of Tender** – set out the terms under which Council will receive and evaluate tenders. The conditions will usually include:
  - i) evaluation criteria and a brief outline of the evaluation methodology to be used;
  - ii) closing date, time and place of lodgement;
  - iii) Council's contact details;
  - iv) pricing requirements (eg: the price should exclude GST);
  - v) relevant Council policies and principles;
  - vi) entitlement of unsuccessful bidders to be debriefed; and
  - vii) information about the Council's complaints process.
- b) **Specifications** – clearly, accurately and completely describe the essential requirements of the goods or services being purchased. It is the basis of all offers and is the foundation for the contract. The specifications will usually include:
  - i) functional requirements;
  - ii) performance requirements; and
  - iii) technical requirements.
- c) **Conditions of Contract** – contain the contractual terms defining the obligations and rights of the parties concerned. Generally, contracts are used for all purchases over \$250,000, or where there are material risks involved.
- d) **Tender Form** – must be completed, signed and returned by the tenderer. It includes a declaration by the tenderer that:
  - i) the tenderer agrees to the Conditions of Tender;
  - ii) the information provided in the tender is accurate and correct; and
  - iii) the person signing the form is duly authorized to do so.



**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

Council, when preparing tender documentation will undertake the following procedures and processes:

- a) prepare clear and concise tender documentation that include all the terms and conditions of the planned purchase with a clear description of the goods or services required and details of any applicable Council policies;
- b) prepare tenders that include details of the intended duration of the contract, including any extensions that are applicable to the contract;
- c) prepare tenders that include details of the evaluation criteria (which are based on the specifications), any weightings to be used in the assessment of bids and the evaluation methodology;
- d) under no circumstances will Council modify the evaluation criteria or methodology after the request for tender has been released without advising all potential tenderers;
- e) prepare specifications that do not restrict competition, reflect bias to any brand, or act as a barrier to the consideration of any alternatives;
- f) provide advice and details of any briefing sessions to be held in relation to the purchase;
- g) provide details on the availability of de-briefing sessions for unsuccessful bidders;
- h) provide details on Council's complaints process and include the contact details of the complaints officer;
- i) prepare documentation that clearly specifies the Council's contact details (including Contact Officer), closing time, date and place of lodgement;
- j) prepare documentation that clearly states how and in what circumstances the purchasing documentation can be altered including the length of time given to bidders to prepare their submissions (which is to be at least 14 days from the date on which the tender notice is published);
- k) provide advice on the treatment of late submissions;
- l) provide an indication if alternative bids will be considered; and



**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

	<p>m) where applicable, documentation such as tenders will be cleared by Council's legal advisors and the General Manager before being issued.</p> <p>n)</p>
<b>Step 3 Inviting Offers</b>	<p><b>Inviting offers</b></p> <p>Council will do the following in respect of inviting tenders:</p> <p>a) advertise each tender at a minimum in the Saturday edition of the "Advocate" newspaper, and on Council's website at <a href="http://www.warwyn.tas.gov.au">www.warwyn.tas.gov.au</a>. The following information will be specified:</p> <ul style="list-style-type: none"><li>i) the nature of the goods or services the Council requires;</li><li>ii) any identification details allocated to the contract;</li><li>iii) where the tender is to be lodged;</li><li>iv) contact details of the Council officer from whom more detailed information relating to the tender may be obtained; and</li><li>v) the period within which the tender is to be lodged.</li></ul> <p>b) tender documentation will either be made available via mail, email, or electronically;</p> <p>c) any electronic or online tendering process undertaken by Council will be in accordance with the requirements of the <i>Electronic Transactions Act 2000</i>;</p> <p>d) tender documentation may be sent directly to identified businesses, however, Council will not provide any documentation to any potential tenderer until the tender has been advertised (so as not to give one tenderer an advantage over another);</p> <p>e) Council will endeavour to get a minimum of three bids of and seek at least one from a local business if available;</p> <p>f) in accordance with our <i>Purchasing Code of Conduct (Section 3.2)</i>, Council will ensure that all potential suppliers are provided with identical information upon which to base tenders and are given equal opportunity to meet the requirements;</p> <p>g) a copy of Council's <i>Procurement Policy and Code for Procurement, Tenders and Contracts</i> will be made available to tenderers, along with this procedure;</p>



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- h) when inviting tenders, Council will ensure that sufficient time has been provided to allow bidders to prepare an adequate response. At a minimum, tenders will be open for 14 days. However, this may increase dependent on whether the requirements are complex, or if it is likely that interested businesses may need to form partnerships/consortiums with other businesses in order to fulfil the requirements of the tender;
- i) when issuing a request for tender to a business, the details of that business will be recorded. The details recorded include:
  - i) name of business;
  - ii) address;
  - iii) contact person;
  - iv) email; and
  - v) telephone.
- j) if for any reason, there is a need to alter the tender documentation once it has been issued, an addendum will be sent to all businesses that have been issued with that documentation; and
- k) if it is necessary to extend the closing date of the tender then all businesses that have been issued with tender documentation will be advised in writing of the change in closing date.

**Offers**

Council will provide a locked tender box at the designated tender lodgement location. The tender box will not be opened until the time set for the closing of tenders has elapsed.

Tenders lodged by electronic means will only be accepted if specified in the Tender document as an accepted means of lodgement.

Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.



**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

In receiving tenders, Council may reject non-compliant offers (in accordance with the terms of our tender documents) which:

- a) are lodged after the closing time without a valid reason;
- b) are not signed where required;
- c) are incomplete – for example, questions have not been answered, pages are missing, or required documentation has not been attached (eg: insurance certificates);
- d) do not comply with mandatory conditions of tender; or
- e) fail to meet mandatory specifications.

Tender opening must not be held in public.

When opening Tenders, Council will ensure that tenders are:

- a) opened in the presence of a minimum of two officers; and
- b) clearly identified and recorded.

**Step 4 Evaluating Offers**

**Evaluating offers**

Council will evaluate tenders in accordance with the evaluation criteria and methodology specified in the evaluation plan, which was developed prior to offers being invited. Under no circumstances will Council modify the evaluation criteria or methodology after the Request for Tender has been released unless all potential tenderers are advised of the change in writing. In evaluating tenders, Council will undertake the following steps:

- a) **Evaluate compliance** – Screen all offers to ensure that they are complete and comply with all mandatory evaluation criteria. Offers that do not meet all mandatory criteria may be excluded from further evaluation. Non-compliant offers include those that:
  - i) do not comply with the nature of the goods or services the Council requires;
  - ii) do not include any identification details allocated to the contract;
  - iii) have not complied with where the tender is to be lodged;
  - iv) were lodged after the closing time, and/or are not signed where required;

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- v) are incomplete – eg: questions have not been answered, pages are missing, or required documentation has not been attached (eg: insurance certificates); and
  - vi) do not comply with mandatory conditions of tender; or fail to meet mandatory specifications.
- b) Clarify offers** – It may be necessary to seek clarification from a tenderer if an offer is unclear. Clarification does not mean that tenderers can revise their original offer. Any clarification sought should be documented.
- c) Evaluate qualitative non-cost criteria** – this stage involves a detailed analysis of each offer against the non-cost or qualitative evaluation criteria and weightings specified in the evaluation plan (the supplier must demonstrate that they meet the evaluation criteria, not just assert it).
- d) Shortlist offers** – This step is only used for complex purchases in order to eliminate offers that are clearly not competitive. However, during this process eliminated offers are not yet totally rejected and may be re-visited later in the evaluation process.
- e) Requests for Tenderers to make a formal presentation** – If appropriate, and tenderers have been forewarned in the *Conditions of Tender*, tenderers may be requested to make a formal presentation to the evaluation committee, clarifying their tender and providing the opportunity for the committee to ask questions. Under these circumstances, the tenderer will be directed to not introduce new or revised information. All information, questions and answers will be formally recorded by the Council.
- f) Calculate value for money and compare offers** – The aim of Council's comparative evaluation process is to determine which offer best meets all the requirements of the specification and offers the best value for money. The major factors which Council take into consideration when evaluating value for money are:
- i) the quality of the proposed goods or services; that is, how well it meets the specified requirements; vs
  - ii) whole of life costs; vs

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iii) risk; that is, the capacity of the tenderer to deliver the goods or services, as specified, on-time and on-budget.

**g) *Select preferred tenderer*** – when selecting the offer that represents the best value for money for Council and where two or more firms are ranked equally following the value for money assessment, preference will be given to a Tasmanian business over an inter-state or overseas business. In selecting a preferred tenderer for a high risk/high value or complex process, Council will often undertake a due diligence investigation to ensure that the tenderer has the capacity and stability to fulfil all of the requirements of the contract.

**h) *Write the evaluation report*** – on completion of the evaluation process Council will document the selection of a successful tenderer in an Evaluation Report to be submitted to the relevant approval authority (eg: Tender Review Committee, General Manager and/or Elected Members). Council's evaluation reports include:

- i) a comprehensive record of the evaluation method, the rationale used to select the preferred supplier, and whether it is recommended that negotiations should be undertaken, and on what basis; and
- ii) reasons for overlooking lower priced tenders.

**Tender review committee**

A Tender Review Committee will be established by Council to review the purchase/lease of all goods and services over \$250,000 (excluding GST), prior to the awarding of contracts, to ensure that Council's procurement policies are adhered to. This Committee must include a representative from the Accounting Services Team.

The Tender Review Committee may review and consider the following aspects of a tender:

- a) the tender and evaluation process adopted;
- b) the final tender evaluation report;



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- c) critical dates (eg: when the contract is to start, when the current contract is due to expire, critical project milestones, expenditure constraints [eg: funds only available this financial year], etc.);
- d) any other relevant issues or information, such as a Probitry Adviser's report; and
- e) a certification by the officer responsible for managing the tender process, verifying conformity with relevant Council policies and guidelines.

**Step 5 Notification to Successful and Unsuccessful Bidders**

**Notification of successful and unsuccessful bidders**

Once the preferred tender is selected and all relevant Council approvals to proceed with the purchase have been granted, Council shall write and (in most cases) telephone the preferred tenderer to notify them that they have been successful. After the preferred tenderer has been notified, Council will notify all unsuccessful tenderers in writing of their non-selection.

Council will advise the unsuccessful tenderers in writing of:

- a) the tender outcome, including the contract number and title;
- b) the successful contractor; and
- c) the term of the contract.

All unsuccessful bidders will be offered a debriefing session.

**Debriefing unsuccessful tenderers**

The purpose of the debriefing session is to help unsuccessful tenderers submit more competitive bids in future by identifying ways in which the tenderer's offer could be improved.

Council will provide a debriefing interview to any unsuccessful bidder who requests one.

Where a multiple-stage purchasing process is used (eg: where Expressions of Interest are used to short-list tenderers) suppliers not short-listed may be offered a debriefing interview, in a similar way to unsuccessful tenderers.



**Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More**

<b>Step 6 Ensure Documentation Registered</b>	The Procurement Evaluation Form for purchasing other than tender/contracts is to be completed and registered under: <p style="text-align: center;">FINANCIAL MANAGEMENT - AUTHORISATIONS- PROCUREMENT EVALUATION FORMS</p>
<b>Step 7 Reporting to Council</b>	<b>Reporting to Council</b> The General Manager will report at each Council meeting any instance, since the previous meeting, where a purchase of a good or service is made where a public tender or quotation process is not used.

## 1. PURPOSE

This Code for Tenders and Contracts (Code) provides a policy framework on best practice tendering in line with legislative requirements.

## 2. OBJECTIVE

The Code aims to:

- ensure compliance with relevant legislation;
- enhance value for money through fair, competitive, non-discriminatory procurement;
- promote the use of resources in an efficient, effective and ethical manner;
- encourage probity, accountability and transparency in decision-making;
- provide reasonable opportunity for competitive local businesses to supply to Council;
- minimise the cost to suppliers of participating in the tendering process;
- allow Council to appropriately manage risk; and
- promote Council's economic, social and environmental plans and policies.

## 3. SCOPE

This Policy applies to all Waratah Wynyard Council activities involved with tendering and procurement.

## 4. POLICY

The Act and Regulations require Council to invite tenders for any contract it intends to enter into for the supply or provision of goods or services valued at or above \$250,000 (excluding GST).

Council may also determine that tenders should be called in certain circumstances as appropriate, where the estimated value of the purchase is less than the prescribed amount.

The General Manager will make a determination on behalf of Council if tenders will be invited for any contracts valued at between \$100,000 and \$250,000 (excluding GST).

For purchases under the \$250,000 threshold, the Council, in accordance with the Regulations, has decided that a quotation process must be undertaken.

There are circumstances in which Council is exempt from undertaking the above processes. These circumstances are described in Section 10.

Council may choose to grant an exemption from undertaking a quotation process where the same circumstances exist for that of a tender described in Section 10.

Council will not split a contract into two or more contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders.

### Invitation of Tenders

In accordance with the Regulations, Council will invite tenders by one of the following means:

- (a) An open tender process;
- (b) A multiple use register; or
- (c) A multiple stage tender.

### Common Use Contracts

Council encourages the use strategic alliances to purchase goods and/or services through contract arrangements already established and administered by other organisations including:

- LGAT Vendor Panel;
- Resource sharing arrangements with other Councils; and
- Regional contracts.

Department of Treasury and Finance has established whole-of-Government contracts.

## 5. DELEGATION FOR APPROVAL OF TENDERS AND CONTRACTS

Under Section 74 of the *Local Government Act 1993*, Council delegates to the General Manager the responsibility for expending funds within the Council estimates (budget).

Council approval must be provided for contracts awarded that are expected to exceed the budget allocation.

**6. PROCUREMENT PRINCIPLES**

Council will have regard to the following principles when acquiring goods and services:

Principle	Definition	What We Will Do
<b>Value for Money</b>	The Council will ensure that it is buying at the most competitive price available, but value for money does not mean buying at the lowest price.	<ul style="list-style-type: none"> <li>• The contribution the good or service makes to achieving Council's strategic plans or policies;</li> <li>• the value of the acquisition and potential benefits against the costs of that purchase;</li> <li>• an assessment of risks associated with the purchase including the preferred procurement method;</li> <li>• how well goods or services meet needs;</li> <li>• maintenance and running costs over the lifetime of a product;</li> <li>• disposal value;</li> <li>• time constraints;</li> <li>• the impact of the procurement decision on the local economy, such as through industry development and employment creation;</li> <li>• the impact of the procurement decision on the environment, such as through minimising waste and reducing demand for goods and services which have a direct impact on the environment (such as printing, utilities and travel); and</li> <li>• the impact of the procurement decision on the society (social value generated), such as through the elimination of discrimination and the promotion of equal opportunity, training, and other identified social objectives.</li> </ul>
<b>Enhancement of the capabilities of the local business industry</b>	The Council will ensure that where local capacity exists it will seek to engage the local market and encourage participation in tender and quotation processes.	<p>In practice this means that Council will:</p> <ul style="list-style-type: none"> <li>• actively seek quotes from local businesses that can provide quality goods and or services;</li> <li>• where local capability exists, ensure that discretionary elements of specifications do not prevent local business from competing; and</li> <li>• not give preferential treatment to local service providers where it cannot be reasonably justified.</li> </ul>
<b>Open and Effective Communication</b>	The Council will ensure that the purchasing process is impartial, open and encourages competitive offers.	<p>In practice this means that Council will:</p> <ul style="list-style-type: none"> <li>• use transparent and open purchasing processes so that service providers and the public are able to have confidence in the outcomes;</li> <li>• adequately test the market through seeking quotations or via tender as appropriate;</li> <li>• avoid biased specifications;</li> <li>• treat all service providers consistently and equitably; and</li> <li>• ensure a prompt and courteous response to all reasonable requests for advice and information from service providers</li> </ul>

**CODE FOR TENDERS AND CONTRACTS**

<b>Principle</b>	<b>Definition</b>	<b>What We Will Do</b>
<b>Ethical Behaviour &amp; Fair Dealing</b>	The Council will promote procurement practice that is legal, ethical, fair and unbiased.	<ul style="list-style-type: none"> <li>• Comply with legal requirements;</li> <li>• conduct all business in the best interests of the Council;</li> <li>• be as effective and efficient as possible when sourcing, ordering and paying for goods and services;</li> <li>• expect individuals involved in procurement processes to declare and act upon any conflicts of interest that may be seen to influence impartiality;</li> <li>• ensure that specifications are clear;</li> <li>• ensure that any Service Provider is not provided with information or clarification that is not provided equally to all service providers;</li> <li>• maintain confidentiality at all times in dealing with service providers;</li> <li>• ensure that conditions of contract are not excessively onerous; and</li> <li>• decline gifts or benefits offered by those involved in the procurement process, particularly from service providers.</li> </ul>
<b>Environmental and Sustainability Considerations</b>	This principle means that Council when making a purchase will consider the potential environmental impact of the product or services to be purchased and take into consideration the longer-term sustainability impacts of the purchase.	<ul style="list-style-type: none"> <li>• Undertake an assessment of the life cycle costs of the purchase with a view to minimising the use of energy, fuel and like inputs;</li> <li>• consider the source of the materials incorporated in the purchase and favour products that are produced using sustainable resources;</li> <li>• the scoping of potential purchases considers relevant Council policies;</li> <li>• contract documentation requires that contractors prepare an environmental management plan to mitigate environmental impacts of construction work; and</li> <li>• Council will comply with relevant environmental legislation in tenders and contracts.</li> <li>• Council will consider the use of recyclable materials in its decision making.</li> </ul>

## 7. DEFINITIONS

**Building Construction** – the construction and refurbishment of buildings and residential properties, and associated maintenance (services and residential) and professional services (e.g. architects).

**Code** – refers to this Code for Procurement, Tenders and Contracts which has been developed in accordance with the requirements of the *Local Government Act 1993* and the *Local Government Regulations 2015*.

**Consultant** – a person or organisation, external to a council, engaged under a contract on a temporary basis to provide recommendations or high-level specialist or professional advice to assist decision-making by council. The consultant will be expected to exercise his or her own skills and judgement independently of the council. It is the advisory nature of the work that distinguishes a consultant from a contractor.

**Contractor** – a person or organisation, external to the council, engaged under a contract for service (other than as an employee) to provide specified services to a council.

**Contract** – a contract is an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do, or abstain from doing, some act.

**Expression of Interest (EOI)** – an Expression of Interest may be used as a means of exploring the market or to pre-qualify businesses to reduce the cost of tendering by restricting the issue of formal tenders.

**Local Business** – all businesses operating in the State, which have a permanent office or presence in Tasmania and employ Tasmanian workers.

**Multiple-stage purchasing** – a process which allows for a preliminary assessment of the market to be made in terms of the capabilities of potential suppliers and the goods and services that are available to satisfy the requirement, before a final purchasing stage is undertaken.

**Procurement** – the entire process by which all resources are obtained by an entity, including planning, design, standards determination, specification writing, selection of suppliers, financing, contract administration, disposals and other related functions.

**Probity** – probity is a risk management approach to ensuring procedural integrity.

**Probity Advisor** – a Probity Adviser provides advice on probity issues before and during the process of tendering and contracting to ensure the process is fair and in accordance with the Council's guidelines.

**Public Tender** – a tender where any business that can meet the requirements of the Request for Tender has the opportunity to bid.

**Purchasing** – the acquisition of goods or services.

**Quotation** – the bid submitted in response to a Request for Quotation from the Council.

**Request for Quotation** – either a verbal or written request for offers from businesses capable of providing a specified work, good or service.

**Request for Tender** – a document soliciting offers from businesses capable of providing a specified work, good or service. Requests for Tender are usually advertised.

**Standing Tender** – a tender from which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process.

**Tender** – a proposal, bid or offer that is submitted in response to a Request for Tender from the Council.

**Tender Box** – the point of lodgement for tenders to ensure that the documentation is kept secure until the tender period closes. Generally, a tender box: is a box or cabinet with an opening which allows large envelopes to be lodged, but which does not permit access to the contents; should be secured in a fixed position; and should be locked with two locks with different keys, maintained by two different officers.

**Tender Review Committee** – a committee established to review the process used for all building and construction and goods and services tenders over \$250,000.

**Verbal Quotation** – a verbal Request for Quotation. A verbal response may be adequate for low value purchases.

**Written Quotation** – a written Request for Quotation to undertake specific works or supply goods and services.

## 8. MAKING A PURCHASE PROCEDURE

The following procurement overview is provided to give a brief outline on the process way in which Council procures routine goods and services:

- 1) plan the purchase (which includes the selection of the most appropriate purchasing method);
- 2) prepare the relevant documents (e.g. quotation, tender or expression of interest);
- 3) invite and receive offers;
- 4) evaluate those offers; and
- 5) advise the successful bidder and offer to debrief any unsuccessful bidders.

Requirements for each step in the procurement process is included in the attached appendices.

## 9. CONTRACT RENEWAL AND EXTENSION

### 9.1 Contract Renewal

In most cases, where the goods or services being delivered under the contract are required on an ongoing basis, Council will undertake a new procurement process (tender/quotation) prior to the completion of the existing contract.

### 9.2 Contract Extension

In some circumstances, it may be desirable for Council to extend an existing contract, rather than seek new tenders or quotations for the delivery of the goods or services.

Contracts will only be extended:

- (a) by an absolute majority of Council;
- (b) following a full evaluation of the performance of the current contractor; and
- (c) where the principles of open and effective competition are protected.

As a general rule, Council will not extend contracts if the original contract does not allow an extension; and/or since the previous tender, the market has changed substantially; or the nature of the goods/services required has substantially changed.

## 10. EXEMPTIONS

The Regulations identify circumstances where Council is not required to issue a public tender process.

The exemption circumstances identified in Regulation 27 – Non-application of the public tender process are:

- (a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
- (b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- (c) a contract for goods or services obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania, or any other local government association in this State or in another State or Territory;
- (d) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- (e) a contract for goods or services that is entered into at a public auction
- (f) a contract for insurance entered into through a broker
- (g) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;
- (h) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of extenuating circumstances; or
  - i. The remoteness of the locality; or
  - ii. The unavailability of competitive or reliable tenderers; or
  - iii. A contract of employment with a person as an employee of the Council.

The General Manager will authorise non-use of the public tender process in accordance with the exemption directions identified above.

## 11. REPORTING

### Annual report

Council will publish in its annual report in relation to all contracts for the supply or provision of goods and services valued at or above \$100,000 excluding GST and separately note those valued at or above \$250,000 excluding GST, awarded or entered in the financial year, including extensions granted:

- (a) description of the contract;
- (b) the period of the contract;
- (c) the periods of any options for extending the contract;
- (d) the value of any tender awarded or, if a tender was not required, the value of the contract excluding GST;
- (e) the business name of the successful contractor; and
- (f) the business address of the successful contractor.

Where an exemption has been granted from a tender process (refer section 10), council will report in its annual report the following details:

- (a) a brief description of the reason for not inviting public tenders;
- (b) a description of the goods or services acquired;
- (c) the value of the goods or services acquired; and
- (d) the name of the supplier.

### Monthly Reporting to Council

The General Manager will report at each Council meeting any instance, since the previous meeting, where a purchase of a good or service is made where a public tender or quotation process is not used.

The General Manager will report to Council all contracts for the supply or provision of goods and services valued at or above \$100,000 excluding GST awarded or entered each month, including extensions granted:

- (a) description of the contract;
- (b) the period of the contract;
- (c) the periods of any options for extending the contract;
- (d) the value of any tender awarded or, if a tender was not required, the value of the contract excluding GST;
- (e) the business name of the successful contractor; and
- (f) the business address of the successful contractor.

## 12. WORK HEALTH AND SAFETY

The Work Health and Safety requirements have been developed in consideration to meeting both Council's and its contractor's responsibilities under the Work Health and Safety Act 2012. Broadly speaking, Council observe the following principles:

- (a) all relevant documentation is submitted pursuant to the Work Health and Safety Act 2012, which may include JSA's, SWMS, Work Health & Safety Plan, certificates of insurance, etc.;
- (b) the contractor is to be covered by a suitable Public Liability Policy of Insurance to a minimum of \$20 million;
- (c) all contractors are to participate in an induction which is provided by Council at no cost; and
- (d) all safety equipment and apparel utilised is to comply with standard safety practices.

Additionally, Council will include the following documentation for submission with tender booklets:

- (a) contractor Health and Safety Risk information and Work Health & Safety Questionnaire;
- (b) insurances and registrations; and
- (c) Quality Management System.

## 13. REVIEW OF THE CODE

Consistent with the requirements identified in Section 333B of the Act, Council will formally review this Code at least every 4 years.

#### 14. BREACH OF THE CODE

Council will take all reasonable steps to comply with this Code.

Council will not be liable in any way to a Service Provider or any person for a breach of this Code.

If any employee of the Council, or a body controlled by the Council breaches this Code, Council may take disciplinary action.

If a Service Provider commits a breach of this Code, Council may, in its absolute discretion, take action against that Service Provider.

#### 15. COMPLAINTS

Tasmanian Councils are provided with broad competency powers under The Act to carry out the role of providing services to their communities.

The resolution of complaints against Council is a responsibility of Council.

In the first instance, complainants are encouraged to seek resolution through the Director or officer in charge of Council's purchasing/tender process. If relevant, complainants are encouraged to seek a debriefing, if they have not already done so.

If a complainant is not satisfied with the response, the complainant should refer to Council's Customer Service charter

#### 16. PUBLICATION

A copy of this Code will be made available on Council's web site. Copies will be made available for public inspection at the Council offices during ordinary office hours. Copies will be made available for purchase at a reasonable charge.

#### LEGISLATION

*Local Government Act 1993 (the Act)*

*Local Government (General) Regulations 2005 (the Regulations)*

The Acts require Councils to adopt a Code relating to tenders and contracts.

#### RELATED DOCUMENTS

Policy Appendix A – Procedure for Making a Purchase up to \$100,000

Policy Appendix B – Procedure for Making a Purchase Valued at \$100,000 or More

#### Other Council Policies

Procurement Policy

Customer Service Charter

#### External Documents:

Australian Code of Tendering (AS4120)

*Electronic Transactions Act 2000*