

## Procurement Policy

Strategic Reference	Outcome 5 – Leadership Strategy 3.1 – Council is an organisational leader, reinforcing our position as a leading local government body. Strategy 3.2 – Council takes a responsible approach to financial sustainability. Strategy 3.4 – Council reports openly and transparently on its performance. Strategy 3.5 – Council staff and elected members act with integrity and accountability.
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Applicable Legislation	Local Government Act 1999 Trade Practices Act 1974 Competition Policy Reform (SA) Act 1996 Work Health & Safety Act (SA) 2012
Related Policies	Disposal of Council Land & Other Assets Policy Prudential Management Policy Annual Business Plan & Budget Policy
Related Documents	WHS 07 – 01 Contractor Management Internal Contractor Management Procedures Internal Financial Control Manual

## ***Procurement Policy***

### **1. Introduction**

In compliance with section 49 of the Local Government Act 1999 (Act), this Policy seeks to:

- Define the methods by which Council can acquire goods and services;
- Demonstrate probity, accountability and responsibility of Council to all stakeholders;
- Be fair and equitable to all parties involved;
- Enable consistency of approach in the application of procurement processes; and
- Ensure that the best possible outcome is achieved for Council.

### **2. Scope**

2.1 This Policy informs procurement activities associated with the acquisition of goods, works or services, including maintenance, of any value. This includes tendering arrangements and the contracting of services and applies to all Council employees.

2.2 It is the responsibility of all employees engaged in any procurement process and third parties involved in procurement activities on behalf of Council, to comply with this Policy (except collaborative procurements, as defined). This responsibility extends to anyone identifying the goods, works or services to be acquired, anyone undertaking or participating in procurement activities and for employees receiving or accepting goods on Council's behalf.

2.3 This Policy does not cover:

- Sponsorships, grants, funding arrangements, donations and employment contracts;
- The disposal of land and other assets owned by Council; and
- The purchase of land by Council.

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### **3. Procurement principles**

3.1 Council's procurement activities are underpinned by the following key principles:

*Principle 1 – Council delivers value for money services to the community*

To ensure the best overall value/result, the application of a strategic and cost effective approach is to be taken. This may include consideration of fit for purpose, whole of life cost, timeliness, flexibility to adapt, quality, efficiency, effectiveness, sustainability, intangible costs/benefits, service, support and warranty.

*Principle 2 – Compliance with statutory obligations*

To ensure purchasing activities are conducted in accordance with legislative and common law responsibilities.

*Principle 3 – Open and fair/effective competition*

To ensure open and fair competition is fostered and maintained by providing suppliers and contractors with appropriate access to Council's procurement opportunities.

*Principle 4 – Professional integrity and ethical conduct*

Council must demonstrate integrity in all procurement activities and undertake duties in a professional, ethical, honest and impartial manner, act responsibly and exercise sound judgement by observing the highest standards of conduct.

*Principle 5 – Risk management*

To ensure that appropriate risk management practices and procedures are in place for procurement activities including risk identification, assessment and implementation of controls.

*Principle 6 – Accountability, transparency and probity*

To ensure that responsibilities are clearly defined and that decisions are made in an open and transparent manner. This will include ensuring all appropriate records/documentation is kept of the procurement process.

*Principle 7 – Environmental sustainability*

To promote and adopt purchasing practices that conserve resources, save energy, minimise waste, protect the environment and are generally consistent with principles of ecological sustainability to the greatest extent that is practicable.

*Principle 8 – Local industry sourcing and local employment and training*

To the extent permitted by law, Council will give preference to local business when all other commercial considerations are equal (ie. capability, capacity and competitiveness). Council has a commitment to maximising the skills, development and employment opportunities available within Council's area.

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### *Principle 9 – Social sustainability*

Consideration may be given, where it is practicable, to investigating the inclusion of not-for-profit organisations (social enterprises) that benefit the community.

## **4. Method of procurement**

### **4.1 Direct Purchase (\$0 to \$15,000)**

Where the value of the purchase is less than \$15,000 a direct sourcing method will be utilised as per the Procurement Table listed at clause 5.2. This method may be utilised for purchases from a single established source or provider without first obtaining competing bids.

### **4.2 Request for Quotations (\$15,001 to \$50,000)**

4.2.1 Where the value of the purchase is greater than \$15,001 and less than \$50,000, three (3) written quotations are requested, including one (1) from a local supplier (refer to clause 4.7 – Buy Local) which can include prequalified/panel contractors.

4.2.2 Quotations should be sought for one-off purchases only. For multiple purchases of a complex nature that are required from the same supplier, a contract should be considered.

4.2.3 If Council does not receive a quotation, then evidence of the quotation process must be documented and reviewed assessed by Council's Finance Officer – Accounting. Upon completion of the assessment, the Finance Officer – Accounting will advise if the option to seek a minimum of one (1) written quotation from an alternative supplier without seeking an approved exemption from this Policy under Clause 7 – Exemptions from this Policy, is permitted.

4.2.4 If the purchase has high risk factors, a contract in lieu of a purchase order should be considered, especially if the terms and conditions required are outside the normal terms of Council's purchase orders.

### **4.3 Request for Select Tender (\$50,001 to \$100,000)**

4.3.1 Where the total value of the purchase is greater than \$50,001 and less than \$100,000, three (3) written tenders are required from three (3) selected prospective suppliers including one (1) from a local supplier (refer to clause 4.7 – Buy Local); which can include prequalified/panel contractors.

4.3.2 Where Council issues a tender to a select group of suppliers, the following information must also be recorded:

- The identity and justification as to why tenderers were selected.

4.3.3 If Council does not receive a quotation, then evidence of the quotation process must be documented and review/assessed by the relevant director. Upon completion of the assessment, the directly will advise if the option to seek a minimum of one (1) written quotation from an alternative supplier

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without seeking an approved exemption from this Policy under clause 7 – Exemptions from the Policy, is permitted.

### **4.4 Request for Tender – Open Tender (\$100,001+)**

4.4.1 Where the total value of the purchase is greater than \$100,001, open tenders must be advertised publicly. The preferred method of advertising tenders will be by using the State Government's Contracts and Tenders website. The following information must also be recorded:

- The identity and justification as to why tenderers were selected.

4.4.2 If Council does not receive a quotation, then evidence of the quotation process must be documented and reviewed/assessed by the relevant director. Upon completion of the assessment, the director will advise if the option to seek a minimum of one (1) written quotation from an alternative supplier without seeking an approved exemption from this Policy under clause 7 – Exemptions from this Policy, is permitted.

### **4.5 Tenders and Quotations (for all procurement greater than \$15,000)**

4.5.1 The following will apply to the tender and quotation process:

- Tenders and quotations will be evaluated against the criteria stated in the tender and quotation documentation;
- Tenderers will be advised of the outcome;
- Unsuccessful tenderers will be offered a debrief.

4.5.2 Alternatively, it may be appropriate to test the market by using a Request for Expression of Interest (REOI). This approach may be used to test the market interest or to prequalify for a select tender. REOI responses must be evaluated against pre-determined criteria.

### **4.6 Prequalified Contractor**

4.6.1 A prequalified contractor may be selected when a tender process has been undertaken previously by Council and/or the Local Government Association (LGA) prior to immediate requirements to purchase.

Note: Officers must consult with the relevant director prior to undertaking this arrangement.

4.6.2 The procurement method of the number of tenders/quotations required still applies.

### **4.7 Buy Local**

4.7.1 Council will support local businesses where local suppliers can demonstrate capability, capacity and competitiveness.

4.7.2 Council will:

- Promote a buy local philosophy;

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- Give preference to a local business when all other commercial considerations are equal;
- Ensure that specifications and purchasing descriptions are not structured in a way to would potentially exclude local suppliers;
- All requests for quotes, tenders, proposals and expression for interest that a qualitative evaluation criterion for local providers is included in the evaluation process; and
- Foster good relations with local suppliers and industry bodies.

### **4.8 Panel Contracts**

4.8.1 Panel contracts may be used in an instance where Council and/or the Local Government Association (ie. VendorPanel) have established panel arrangements with a select group of suppliers and can include either:

- A standing offer from a group of suppliers for the provision of goods and services on agreed terms; or
- The prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

Note: Officers must consult with the relevant director prior to undertaking this arrangement.

4.8.2 The procurement method of the number of tenders/quotations required still applies (refer to Procurement Table at clause 5.2).

### **4.9 Sole Supplier Contracts**

Where there is only one (1) supplier to provide the required goods, works or services, a sole supplier contract will be utilised. Contract documentation is required to formalise arrangements in this instance.

### **4.10 Collaborative Purchasing Contracts**

Where Council is part of a collective group where a contract has been put in place that Council can access, the following bodies may be accessed/consulted:

- Local Government Association Procurement
- A purchasing group of which Council is a member
- Other councils
- Council Solutions
- Procurement Australia; and
- State Government and Federal Government contracts

### **4.11 Agreement/Contract Types**

4.11.1 Council maintains a Contracts Register for all procurement contracts/agreements entered into.

4.11.2 Prior to adopting one (1) of the procurement methods, the Contracts Register must be checked for existing contracts with the same scope, products or services. Consideration should also be given to utilising any other existing contracts available to Council.

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### **4.12 Petty Cash**

4.12.1 Council operates a petty cash system for expense reimbursement only. Cash advances are not permitted and there is a limit of \$20 per transaction.

### **4.13 Credit Cards**

4.13.1 Credit cards must be used as per Council's Corporate Credit Card Policy.

### **4.14 Purchase Orders**

4.14.1 Purchase orders serve three (3) main purposes:

- Ensuring expenditure is within an employee's financial delegation;
- Demonstrating a financial commitment in Council's financial system to allow accurate tracking of financial obligations at any point in time; and
- Establishing a set of Terms and Conditions for purchase of goods, works or services.

4.14.2 Purchase orders will not be used for high value goods, works or services.

## **5. Procurement methodology**

5.1 The appropriate method of procurement will be determined by a number of factors, including:

5.1.1 Purchase Total Value, being exclusive of GST and calculated as follows:

- single one-off purchase
- multiple purchases
- ongoing purchases (including extension options)

5.1.2 Cost of an open market approach, in consideration of the value of the acquisition, and an assessment of the potential benefits of the selected approach;

5.1.3 The particular circumstances of the procurement activity;

5.1.4 The objectives of the procurement;

5.1.5 The size of the market and the number of competent suppliers;

5.1.6 Council's leverage in the marketplace;

5.1.7 Time constraints;

5.1.8 A holistic assessment of the risks associated with the relevant procurement.

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5.2 The table below provides the minimum requirements relating to the procurement method for the purchase of goods, works or services based on Purchase Total Value (excluding GST):

Value of purchase (\$)	Method of procurement	Agreement type
\$0 to \$5,000	<p><b>Direct Purchase (based on advertised price)</b></p> <p>Alternatively:</p> <ul style="list-style-type: none"> <li>• Request for Quote: minimum one (1) verbal, or</li> <li>• Written Quotation: may consist of prequalified contractors</li> </ul>	Petty Cash, Credit Card, Fuel Cards, Store Accounts, Purchase Order, Reimbursement through Creditors, Contract/Other Written Agreement
\$5,001 to \$10,000	<p><b>Direct Purchase (based on advertised price)</b></p> <p>May consist of prequalified contractors.</p> <p>Alternatively:</p> <ul style="list-style-type: none"> <li>• Request for Expressions of Interest (REOI)</li> </ul>	Petty Cash, Credit Card, Fuel Cards, Store Accounts, Purchase Order, Reimbursement through Creditors, Contract/Other Written Agreement
\$10,001 to \$15,000	<p><b>Direct Purchase (based on advertised price) or Request for Quote – Minimum One (1) Written Quotation</b></p> <p>May consist of prequalified contractors or contractors identified through Local Government Association Procurement - VendorPanel</p> <p>Alternatively:</p> <ul style="list-style-type: none"> <li>• Request for Expressions of Interest (REOI);</li> <li>• Request for Tender (Open);</li> </ul>	Petty Cash, Credit Card, Fuel Cards, Store Accounts, Purchase Order, Reimbursement through Creditors, Contract/Other Written Agreement
\$15,001 to \$50,000	<p><b>Request for Quote – Minimum Three (3) written quotations</b></p> <p>May consist of prequalified/panel contractors.</p> <p>Alternatively:</p> <ul style="list-style-type: none"> <li>• Request for Expressions of Interest (REOI);</li> <li>• Request for Tender (Open)</li> </ul>	Purchase Order and/or Contract/Agreement
\$50,001 to \$100,000	<p><b>Request for Tender – Minimum Three (3) selected tenderers and written quotations</b></p> <p>May consist of prequalified/panel contractors.</p> <p>Alternatively:</p>	Purchase Order and/or Contract/Agreement

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	<ul style="list-style-type: none"><li>• Request for Expressions of Interest (REOI);</li><li>• Request for Tender (Open)</li></ul>	
\$100,001 +	<b>Request for Tender (Open)</b>	Purchase Order and Contract/Agreement

5.3 The total or estimated value of the entire purchase must reflect the actual goods, works or services to be undertaken or required.

**Note:** For vehicle, plant or equipment trade-ins, the Total Purchase Value is the total value of the procurement (ie. excluding trade-in value).

## **6. Other Considerations**

### **6.1 Work, Health and Safety**

Council will only engage suppliers who are able to maintain a level of work health and safety acceptable to Council. As a minimum, this will be compliance to the *Work Health and Safety Act 2012*, all associated regulations and all requirements relating to contractors in Council's relevant Work Health and Safety policies, and as specified in terms and conditions of contractual arrangements.

### **6.2 Record Keeping Requirements**

All reasons for entering into specific procurement methods or contracts other than those resulting from a competitive quoting, tender process or purchases for amounts less than \$5,000 must be documented. Records are stored in Council's electronic documents records management system.

### **6.3 Environmental Protection**

Council:

- 6.3.1 Adopts purchasing practices which conserve natural resources;
- 6.3.2 Aligns Council's procurement activities with principles of ecological sustainability;
- 6.3.3 Purchases recycled and environmentally preferred products where possible;
- 6.3.4 Integrates relevant principles of waste minimisation and energy;
- 6.3.5 Fosters the development of products and services which have a low environmental impact;
- 6.3.6 Provides leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

### **6.4 Prudential Requirements**

In some circumstances a procurement process may require additional due diligence in accordance with the Act's prudential requirements. Refer to Council's Prudential Management Policy.

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### **6.5 Confidentiality**

- 6.5.1 All information provided between a contractor and Council shall be treated as confidential only to the extent provided by the Law, including Freedom of Information Act 1991 (FOI Act) provisions.
- 6.5.2 All Council employees with access to procurement related systems (including systems through which tender documents are electronically submitted to the Council) must observe applicable confidentiality obligations.
- 6.5.3 Tender documentation must only be viewed by employees responsible for relevant procurement processes prior to the close of submission for tender documentation. Should any employee become aware of information relating to a tender submission which they know or ought reasonably to know is confidential (including identity of person submitting or content of documentation), that employee must disclose their knowledge to the Chief Executive Officer.

### **6.6 Conflict of Interest**

- 6.6.1 Where a Council employee, Council Member or relative<sup>1</sup> of either is considering providing goods, works or services to Council, they must declare a conflict of interest.
- 6.6.2 All details regarding the conflict and an application for an exemption to this Policy must be submitted in writing to the Chief Executive Officer before any procurement methods are entered into. The Chief Executive Officer will assess the application, options available and the impact on Council before providing written advice of the decision.

### **6.7 Other Limitations**

- 6.7.1 It is a further consideration upon delegations and sub delegations that the power in Section 137 of the Act to expend funds of the Council must be exercised.
- 6.7.2 In addition to the requirements set out elsewhere in this Policy and any other policies, resolutions or documentation of Council, the following conditions upon the exercise of the powers and functions by delegates and sub delegates are prescribed:

*Monetary limitation applies to procurement processes:*

An officer may only commence a procurement process in respect of good(s) or services(s) or other purchase or expenditure the total value of which is not more than the monetary limitation set out in their instrument of delegation or sub delegation of the power in Section 137 of the Act to expend the funds of Council.

*Monetary limitation applies to contract documentation:*

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<sup>1</sup> Relative is defined as a spouse or domestic partner, a parent or remoter lineal ancestor, a son, daughter or remoter descendant, a brother or sister, a stepfather, stepmother, stepson or stepdaughter or any member of the person's family who resides in the member's household.

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An officer may only sign contract documentation in respect to good(s) or service(s) or other purchase or expenditure the total value of which is not more than the monetary limitation set out in their instrument of delegation or sub delegation of the power in Section 137 of the Act to expend the funds of Council.

*Prohibition on approval of procurement process and signing contract documentation:*

An officer may not sign off on or otherwise approve a procurement process as well as sign contract documentation in relation to the same good(s) or service(s) or other purchase or expenditure (including proposed purchase or expenditure).

*Prohibition on non-executive signing of contract documentation:*

Coordinators and managers may not sign contract documentation.

## **7. Exemptions from this Policy**

- 7.1 This Policy and supporting procedures contains processes to be followed by Council in its procurement activities. There may be emergencies (refer to clause 8 – Procurement for Emergencies), or procurements in which the methods included in this Policy will not necessarily deliver the best outcome for Council and other market approaches may be more appropriate.
- 7.2 Where there is a significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property or to enable the prompt return to business under Council's Business Continuity Plan, the Chief Executive Officer is delegated by Council to expend funds as required. The Chief Executive Officer will provide Council with a report as soon as practical regarding the emergency situation actions taken.
- 7.3 In certain other circumstances, Council officers may, after prior approval from the Chief Executive Officer, waive application of this Policy and pursue a method to ensure the best outcome for Council.
- 7.4 Exemptions from the requirement to seek tenders or quotations will be considered if:
  - The pressures of time are such that an open tender/quote is not feasible; such as where there has been an unanticipated Council or Government policy decision; or
  - Council purchases assets or goods at an auction up to \$100,000; or
  - Council purchases second hand assets or goods up to \$100,000; or
  - A situation presents itself wherein a contractor or consultant has considerable background knowledge and experience or specialist expertise on that particular Council project or asset, eg. an extension of a previous project. In such situations, the procurement of assets, goods, works or services on negotiated fees and terms through that consultant or contractor alone may be deemed sound and advantageous to the project. This could include engaging the contractor or consultant on a retainer basis or a specified period.

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- Reasons for any exemption to the procurement method MUST be in writing, documented and registered in Council's electronic document records management system.

Note: Approval MUST be received from the Chief Executive Officer in writing prior to requesting a quote/tender from perspective supplier(s).

### **8. Procurement for Emergencies**

- 8.1 This clause is in conjunction with clause 7 – Exemptions from the Policy.
- 8.2 A Council employee nominated for the purposes of this clause by the Chief Executive Officer may, in any case of emergency, authorise the procurement of works, goods and services to a value sufficient to meet that particular emergency.
- 8.3 Reasons for the procurement emergency must be documented and registered in the electronic document records management system as soon as possible.
- 8.4 This clause does not authorise the procurement of works, goods and services in excess of those necessary to meet the immediate needs of any emergency.
- 8.5 Emergency procurement includes:
  - Unforeseen or sudden and requires an urgent response
  - Pandemic
  - Disaster – disrupts the functioning of a community or society including:
    - Natural – bushfires, earthquakes, floods etc.
    - Technological – chemical releases, power outages, natural gas etc.
    - Man-made – riots, protests, terrorism etc.
  - Necessary to protect public safety, health and wellbeing

### **9. Delegations**

- 9.1 Council has delegated to the Chief Executive Officer the power in Section 137 of the Local Government Act to expend funds of Council within Council's adopted budget.
- 9.2 The Chief Executive Officer has sub delegated to directors, managers, coordinator, employees or contractors the power in Section 137 of the Act to expend the funds of Council as per Council's Internal Financial Controls Manual.

### **10. Policy Responsibility**

The Director Community & Corporate is responsible for ensuring the proper operation of this Policy.

### **11. Availability/Accessibility**

This policy is available for inspection at Council's offices during normal business hours & Council's website and will be emailed to interested parties on request (please lodge request in writing via email to [council@coorong.sa.gov.au](mailto:council@coorong.sa.gov.au)).

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### 12. Document History

Version	Adopted	Minute No	Description of change(s)
1	23 June 2015	123/15	Cyclical review
2	21 March 2017	046/17	Cyclical review
3	15 May 2018	088/17	Cyclical review
4	29 June 2021	136/21	Significant review:  Amendment to procurement method requirements  Detailed clarification on exemption to policy requirements  Additional clauses – other considerations, procurement for emergencies, delegations  General formatting, terminology and renumbering of clauses