



PROCUREMENT POLICY

Approved: By Council on 13 December 2016

Owner: Associate Director, Finance & Businesses

HPRM: ACC2016/179390

1. Introduction

Scope

This policy covers all expenditure-related Procurement activities for the provision of goods, works and services to the Council. This policy encompasses the entire Procurement lifecycle from identification of the need through to the end of contract. This policy applies to anyone who undertakes or is involved in Procurement activities on behalf of the Council. Compliance with the procedures contained herein is mandatory unless expressly indicated otherwise.

Out of Scope

This policy does not cover expenditure or revenue related to asset disposals, real property acquisitions and other non-Procurement expenditure including, but not limited to: corporate sponsorships, Council sponsorships, grants, incentive schemes, funding arrangements, donations, employment contracts and unsolicited proposals. Controls related to some of these exceptions are covered in separate policies and/or operating guidelines.

Leases and licenses for the use of Council property and land are not covered under this policy except where such arrangements include the provision of goods and services forming part of leasing, licensing and other revenue contractual activities.

All non-Procurement related contracts (excluding property and employment related contracts) must be reviewed (whether drafted internally in Council or by a third party), either by a Council Officer within the Procurement team or another appropriately skilled Council Officer as required. The Council Officers within the Procurement team will endeavour to capture all non-Procurement related contractual information within the Council's contracts register and assist with the on-going Contract Management tasks associated with those contracts (excluding property and employment related contracts).

2. Strategic Context

This policy assists with achieving the objectives and outcomes of the Council as identified within Council's strategic and corporate plans whilst upholding applicable legislative requirements.

The Council will effect and maintain Operating Guidelines which support this policy and ensure best practice in the Procurement lifecycle.

3. Policy Objectives

Primary Objective

This policy's primary objective is to achieve the principles outlined within section 49 (a1) of the *Local Government Act 1999* (SA).

Secondary Objective

This policy also aims to achieve the objectives of Council's strategic and corporate plans through the expenditure of Council funds on goods, works and services whilst having regard to the policy principles identified below.

4. Policy Principles

Primary Principles

Obtaining value in the expenditure of public money

The Council will undertake efficient and effective Procurement and Contract Management activities to ensure that value for money is obtained and public money is wisely spent.

The Council will strive to obtain the best value for money through:

- consideration of both financial (whole of life costs) and non-financial factors (including risks) associated with the purchase of goods, works or services in a timely and efficient manner, commensurate with the nature of the purchase;

- utilisation of various Procurement methods including, but not limited to, competitive quoting and tendering, negotiating with Tenderers, Council managed panels, and accessing external panels and purchasing cooperatives such as Council Solutions; and
- benchmarking and monitoring the performance of Suppliers with the aim of developing open and effective relationships to ensure the delivery of high quality goods, works and services which are fit for purpose.

The Council will have regard to the following measures in obtaining value for money in conjunction with providing for ethical and fair treatment of participants:

- For purchases where the estimated lifecycle costs of the contract exceeds \$100,000.00 (Ex GST), the Council's standard practice will be to call for tenders;
- Council recognises that competitive tendering may not be the most appropriate method of purchasing in all circumstances and reserves the right to undertake open or selected Procurement activities where considered appropriate;
- In circumstances where the Council enters into purchasing contracts other than those relating from a competitive Procurement process (recognised as a 'non-tendered purchase'), the Council will record the reasons for entering into those contracts;
- Where the Council accesses an approved Council Solutions contract or other purchasing cooperative (such as the Local Government Association) contract established in accordance with transparent competitive tendering processes, it is deemed that these are contracts resulting from a tender process and as such will not be recorded as non-tendered;
- Where requests for tender or proposals have been invited for a contract for the provision of goods, works or services, the Council may negotiate with one or more of the Tenderers. Further, if Council determines it appropriate, Council may negotiate with any other person who is not a Tenderer and enter into a contract on such terms as Council deems fit whilst ensuring probity is maintained for any negotiation undertaken;
- The Council may close down a tender if there are no suitable tender submissions received and proceed to negotiate with any one or more of the Tenderers or any other person;
- The Council will ensure that appropriate practices and procedures of internal control and risk management are in place for its Procurement activities including risk identification, assessment and implementation of controls and publicity management. Key strategic Procurement risk categories to be considered are:
 - financial risk;
 - operational risk;
 - work, health and safety risk;
 - legal risk; and
 - reputational risk.
- Procurement risk assessments will concentrate on identifying whether the potential Supplier has both capacity and capability to meet the Council's needs. It is also to identify any other factors that might result in goods or services not being provided when required;
- Procurement risk assessments will influence the approach to market, with higher risk acquisitions requiring more formal Procurement planning methodologies and higher levels of management oversight;
- The Procurement team must be engaged when considering high risk and high value Procurements to ensure that risks are appropriately managed;

- The Council undertakes to take all reasonable steps to preserve the confidentiality of any information it obtains from an offeror, Tenderer or Supplier;
- To protect the Council from financial risk, the Procure to Pay Operating Guidelines will be followed by all Council Officers. These controls will include the requirement that a purchase may not be broken into smaller amounts for the purpose of circumventing the monetary threshold of this policy and the Operating Guidelines;
- Council is committed to protecting human health, safety and welfare in the workplace. Council will ensure that its Procurement activities protect the health, safety and welfare of Elected Members, Council Officers, volunteers, customers, third parties and our community;
- It is important that Council Officers responsible for the delivery of goods or services by a Supplier manage delivery in reference to the contract. Contract Management will enable the Council to manage the contract and the Supplier relationship to give value for money and improve performance expectations. The main areas required are managing delivery (formal governance), managing the relationship of Suppliers and stakeholders, contract administration, procure to pay, continuous improvements and change management;
- The Council will determine the requirement for, and frequency of, these activities by reference to the scale, risks, complexity and importance of the contracted deliverables; and
- The Council is committed to developing strategic partnerships with its long term and/or key Suppliers. As part of Contract Management this involves working collaboratively and sharing information with Suppliers to enable them to deliver innovative solutions and continuously improve their services for the mutual benefit of the Supplier and Council.

Providing for ethical and fair treatment of participants

The Council will provide open and fair access to Council's Procurement activities and maintain ethical treatment of participants through consistent processes.

The Council will provide ethical and fair treatment through:

- ensuring reasonable access for all suitable and competitive Suppliers;
- providing adequate, identical and timely information to all participants;
- undertaking duties in an ethical, impartial and responsible manner whilst exercising sound judgement; and
- buying without favouritism or prejudice.

The Council will have regard to the following measures in providing ethical and fair treatment of participants:

- ensuring Council Officers disclose any conflict of interest and disregard any personal interest when undertaking a Procurement activity;
- presenting clear and easy to understand evaluation criteria and methodology;
- conducting transparent and consistent evaluation processes in line with Council's Operating Guidelines; and
- providing feedback to Tenderers on decisions and access to a timely and effective complaints process in accordance with Council's Operating Guidelines.

Ensuring probity, accountability and transparency in procurement operations

The Council will ensure probity is maintained through upholding integrity, honesty and confidentiality where necessary, accountability through appropriate delegations and reporting, and adequate management and provision of information for Procurement activities.

The Council will ensure probity, accountability and transparency through:

- conduct in line with Elected Members and Council Officers Code of Conduct provisions created pursuant to the *City of Adelaide Act 1998* (SA) and the *Local Government Act 1999* (SA);
- awareness of the requirements contained within the *Freedom of Information Act 1991* (SA) and the *Independent Commissioner Against Corruption Act 2012* (SA); and
- ensuring that roles, responsibilities and delegations are clearly established with adequate training and knowledge sharing for Elected Members and Council Officers.

The Council will have regard to the following measures in ensuring probity, accountability and transparency:

- Elected Members will be provided with a quarterly forward procurement plan for consideration, detailing tenders and contracts which will require Elected Member approval;
- Elected Members will be requested to approve the award of all contracts that exceed \$4,000,000 (Ex GST). In accordance with sections 90 and 91 of the *Local Government Act 1999* (SA), all tender and contract award reports will be submitted to Elected Members in confidence because they contain commercially sensitive information and to allow for effective negotiation up to contract execution. Generally, a contract award report will be submitted once contractual negotiations with the preferred Tenderer have taken place. However, there may be occasions of expediency that require a contract award report to be submitted to Elected Members prior to completion of negotiations. In that instance, approval of the preferred Tenderer may be delegated to the CEO or their delegate;
- The Chief Executive Officer has delegated authority to award contracts that exceed \$4,000,000 (Ex GST) pursuant to a Council Solutions or other Purchasing Cooperative arrangement, provided that the contract is within the Elected Member approved budget;
- The Chief Executive Officer has delegated authority to award contracts and approve expenditure within an Elected Member approved budget up to and including \$4,000,000 (Ex GST); and
- Council Officers will not incur expenditure unless the funds are allocated within a budget approved by Elected Members and/or it is reasonably assumed that the expenditure amount will be included in a future budget.

Secondary Principles

The use of local goods and services

Measuring Economic Contribution

The Council will adopt the principles of the State Government's Industry Participation Policy. The Employment Contribution Test (**ECT**) will be applied to all formal procurement activities up to \$4,000,000. The ECT requires that Council will first determine if the goods/services to be procured are available within South Australia. If so, all Tenderers for the procurement will be required to provide the number of labour hours associated with the primary contract and any sub-contracts. The Industry Participation Policy Plan (**IPP Plan**) will be applied to all formal procurement activities above \$4,000,000. The IPP Plan will provide a clear statement of the Tenderer's commitment to seeking opportunities to optimise the benefits of the contract to the State economy and to use local industry.

Buy "Australian Made"

With the aim of achieving a value for money outcome, the Council will endeavour to, at its discretion and to the full extent permitted by law, purchase Australian made goods provided that:

- the goods do not detrimentally effect Council's operations;

- the quality of the product will be sufficient for its intended use and life expectancy;
- delays in servicing or obtaining spare parts will not unduly hinder the Council's ability to deliver a service to the community;
- the equipment, where appropriate, will be compatible with existing equipment used by the Council; and
- where the business case justifies it is cost effective to do so in terms of purchasing, maintenance and availability of supply.

Social, Environmental and Economic Sustainability Considerations

Environmental Sustainability

Council's strategic direction includes consideration of environmental factors for Council projects and as such, the Council may incorporate environmentally sustainable practices within the statement of requirements and/or a weighted evaluation criterion to address environmental factors for a Procurement activity. Further, Council will reasonably require Tenderers to provide details of their environmental track record as well as estimates of their carbon emissions.

Aboriginal and Torres Strait Islander Employment

Council is committed to supporting Aboriginal and Torres Strait Islander businesses and promoting the employment of Aboriginal and Torres Strait Islander people. To support this commitment, the Council, where deemed appropriate, will include a weighted evaluation criterion that assesses the Tenderers' credentials in engaging Aboriginal and Torres Strait Islander people.

Youth Employment and Training

Council is committed to maximising the skills development and employment opportunities available to young people in the city of Adelaide. To support this commitment, the Council, where deemed appropriate, will include a weighted evaluation criterion that assesses the Tenderers' credentials in engaging apprentices, trainees and cadets in their work practices.

Fairtrade

Council is committed to being a Fairtrade Council which includes purchasing Fairtrade goods and achieving certain targets which must be met to maintain a Fairtrade status. To support this commitment, the Council, where appropriate, will incorporate the requirement of Fairtrade products in the statement of requirements for a Procurement activity.

Administrative Requirements

5. Emergency Procurement

When responding to an emergency in accordance with the provisions of the State Emergency Management Plan or formal arrangements outlined in other state or commonwealth emergency service related legislation – Procurement activities should be undertaken in the most expedient manner possible.

Procurement activities undertaken in response to an emergency situation should, to the maximum extent possible, comply with normal Council's policies and guidelines.

In the case of an emergency, requirements relating to Procurement planning will be waived in the early response to an emergency.

6. Legislative Requirements

This policy addresses some of the requirements of section 49 of the *Local Government Act 1999* (SA) which states:

“49—Contracts and tenders policies

- (a1) *A council must develop and maintain procurement policies, practices and procedures directed towards—*
- (a) *obtaining value in the expenditure of public money; and*
 - (b) *providing for ethical and fair treatment of participants; and*
 - (c) *ensuring probity, accountability and transparency in procurement operations.*
- (1) *Without limiting subsection (a1), a council must prepare and adopt policies on contracts and tenders, including policies on the following:*
- (a) *the contracting out of services; and*
 - (b) *competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and*
 - (c) *the use of local goods and services; and*
 - (d) *the sale or disposal of land or other assets.*
- (2) *The policies must—*
- (a) *identify circumstances where the council will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or disposal of land or other assets; and*
 - (b) *provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and*
 - (c) *provide for the recording of reasons for entering into contracts other than those resulting from a tender process; and*
 - (d) *be consistent with any requirement prescribed by the regulations.*
- (3) *A council may at any time alter a policy under this section, or substitute a new policy or policies (but not so as to affect any process that has already commenced).*
- (4) *A person is entitled to inspect (without charge) a policy of a council under this section at the principal office of the council during ordinary office hours.*
- (5) *A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under this section.”*

(Version 19.5.2016)

7. Definitions

Term	Definition
Contract Management	means the management of Supplier's performance against the contract including the key performance indicators stipulated in the contract
Council	means The Corporation of the City of Adelaide (ABN 20 903 762 572) trading as Adelaide City Council
Elected Members	means the elected members of the Council
Council Officers	means any employee, contractor, consultant, temporary member of staff working for, or on behalf of, the Council
Council Solutions	means the Regional Authority established pursuant to the <i>Local Government Act 1999 (SA)</i> and with current members being Council, City of Charles Sturt, City of Marion, City Of Onkaparinga, City of Salisbury, City of Tea Tree Gully
GST	means the goods and services tax as defined in <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
Operating Guidelines	means the operating guidelines that support this policy
Procurement	means the whole process of acquisition of goods, works or services whether by tender, quote, expression of interest or any other similar process. The procurement continuum spans the whole life cycle from initial concept, contracting and Contract Management through to the end of a services contract, cessation of the supply of goods or the end of the useful life of an asset
Purchasing Cooperative	means any government cooperative purchasing group, including but not limited to Local Government Authority
Supplier	means any person contracted to supply goods, works or services to the Council
Tenderer	means any person that has made an offer to Council in response to an invitation to tender

8. Roles and Responsibilities

The Associate Director, Finance and Businesses, has overall responsibility for the maintenance, review, approval and support of documents relating to Procurement activities.

When Procurement occurs within a program, it remains the responsibility of the individual Associate Director and their Director to ensure compliance to this policy.

It is the responsibility of all Council Officers involved in Procurement activities on behalf of the Council to comply with this policy. This responsibility extends to anyone identifying the goods or services to be acquired, exercising Procurement activities and personnel receiving or accepting goods on the Council's behalf.

Compliance with the policy is the responsibility of each Council Officer. Council Officers who participate in the Procurement process are responsible for correcting deficiencies raised in monitoring and compliance reports in relation to this policy.

9. Policy Restrictions / Limitations

The *Local Government Act 1999* (SA) is particularly relevant to the tendering process; however, various other acts and regulations apply to Council's diverse range of Procurement activities. This policy is intended to supplement these instruments. Any inconsistency that may arise between this policy and a relevant act or regulation shall be resolved in favour of the act or regulations.

10. Key Performance Indicators

- General opinion from Council Officers is that this policy and associated Operating Guidelines is achieving value for money and contributes to achieving the strategic direction of the Council;
- No moderate or high risk audit findings are made for a Procurement activity against this policy and associated Operating Guidelines; and
- Minimal complaints are received regarding the conduct of the Elected Members or Council Officers in relation to a Procurement activity.

11. Monitoring and Implementation

This policy becomes effective upon approval by Council. Implementation and maintenance of the policy will be the responsibility of the Associate Director, Finance and Businesses. In addition the Associate Director, Finance and Businesses, shall be responsible for monitoring and reporting policy adherence.

Procurement activities will be audited by Internal Audit based on the risk assessment of this area compared to other Council operations.

All serious breaches or non-adherence to this policy and guidelines will be reported to the Chief Executive Officer as soon as practicable after the breach has been discovered. The Chief Executive Officer may refer the matter to the external audit committee if deemed appropriate. A serious breach is defined as one that leaves the Council open to a risk rating of high in terms of likelihood or consequence as defined by the Council's Risk Management Framework and Methodology.

12. Review

This policy is due for review 3 years from the date of approval by the Elected Members. The associated Operating Guidelines will be updated as required.

13. Revision History

Revision Summary	Approval Date	Council or Committee	Decision #	TRIM Reference
<i>Purchasing Policy (retired)</i>	22/9/2008	<i>Corporate Strategy & Performance Committee</i>	2351	ACC2007/134655
Original	22/3/2011	Council		ACC2010/146250
Revision 1	23/07/2013	Council	13203	ACC2013/103644
Revision 2	13/12/2016	Council	17317	ACC2016/179390