



Policy

PURCHASING

**Adopted by Corporate Strategy &
Performance Committee on**

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Subsequent Amendments:

**Date, authorisation and reference to
aspects amended**

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1. INTRODUCTION

This policy covers all activities associated with the purchasing of all goods, services, and works by the Corporation either by expenditure or income related contracts.

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.

2. POLICY OBJECTIVES

This Purchasing Policy will provide clear direction to management, staff and the Corporation in relation to the purchasing function and establishes a decision framework that:

- Ensures purchases are made in an open, fair, and transparent manner;
- Ensures open and effective competition;
- Delivers best value through the most appropriate service provider;
- Promotes efficient purchasing practices and their continuous improvement;
- Appropriately manages risk;
- Supports Environmental, Social and Economic Procurement and Sustainability;
- Supports the employment, training and development of young people;
- Encourages local suppliers and manufacturers; and
- Ensures Council's purchasing activities are in accordance with its legislative and common law responsibilities.

3. POLICY STATEMENTS

3.1 *Professional Integrity, Accountability and Probity*

To enhance professional integrity, accountability and probity:

- Corporation Officers engaged in purchasing will at all times undertake their duties in an ethical and impartial manner, act responsibly and exercise sound judgement;
- The Corporation conducts tenders with integrity in accordance with the Corporation's Code of Tendering (**Appendix 1**);
- All processes relating to Corporation purchases will be open, fair and transparent;

- A Corporation Officer will not use or disclose information that confers unfair advantage or financial benefit or detriment on a supplier or potential supplier;
- Corporation Officers will not engage in any activity that would create conflict between personal interest and the interest of the Corporation;
- The Corporation will ensure that appropriate internal audit controls are implemented and monitored for its purchasing activities;
- Detailed Operating Guidelines will be documented and maintained to support this Policy;
- The Corporation's complaints process deals with complaints relating to purchasing and provides timely feedback to suppliers of goods and services or works.

3.1.1 Delegated Authority

Corporation Officers will not incur expenditure unless funds are allocated for the expenditure in the budget approved by Council.

Approval of optional contract extensions are authorised through the relevant delegated authority process.

3.1.2 Chief Executive Officer

The Chief Executive Officer has delegated authority to;

- Approve expenditure within the limits of the Council approved budget;
- Approve revenue based contracts up to \$500,000; and
- Accept tenders up to \$500,000;

3.1.3 General Managers

General Managers have delegated authority, provided it is within budget, to;

- Incur and approve expenditure or revenue based contracts up to the value of \$250,000; and;
- To accept tenders up to the value of \$250,000.

3.1.4 Managers

- Appropriate levels of authority to incur and approve expenditure or revenue based contracts will be delegated to Managers taking into account their budget responsibilities and will be approved by the Chief Executive Officer and the Executive Management Team.

3.1.5 G6 Purchasing and other Purchasing Cooperatives

The Chief Executive Officer has delegated authority to accept tenders and enter into contracts, on behalf of the Corporation for strategic contracts tendered for by the G6 Group of Councils and other Cooperatives, provided it is within budget.

This authority may be delegated to Council's executive G6 representative.

3.1.6 Accept tenders over \$500,000 Council or Council Committee

The Council or a Council Committee will consider all tenders where the value of the tender exceeds \$500,000 except where it is a G6/Purchasing Cooperative contractual arrangement, in which case approval is by the CEO.

3.2 Approved Methods of Procurement

To meet the Corporation's requirements in relation to open, fair and transparent processes, the approved methods of procurement are as follows:

3.2.1 Calling Tenders

The Corporation will call for tenders for the supply of goods, the provision of services, or the carrying out of works in circumstances where the level of estimated gross value of expenditure exceeds \$50,000.

Council reserves the right to undertake open or selected tenders whenever considered appropriate by the Council.

The Corporation recognises that competitive tender/quotes will not be possible or necessary in all circumstances. In circumstances where the Corporation enters into purchasing contracts other than those resulting from a tender process, the Corporation will record the reasons for entering into those contracts.

Examples of where those circumstances may apply are:

- Sole Supplier;
- Urgency;
- Where the timeframe does not allow it;
- Emergency situations;
- Sole Acceptable Supplier
- Where the costs of undertaking the competitive process would outweigh any potential benefits; and
- Where a period contract has been let and it is proposed to extend that contract past its initial contract period provided that there is a benefit to the Corporation and provided that extension would not damage the notion of open competitiveness of other potential tenders in the future.

Where the Corporation accesses an approved Purchasing Cooperative (including G6) 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.

3.2.2 Calling Quotes

For the supply of goods, the provision of services, or the carrying out of works in circumstances where the level of estimated gross value of expenditure amounts is between \$10,001 and \$50,000, formal quotations will usually be obtained.

3.3 Value for Money

The Corporation will strive to obtain the best value for money together with quality goods and services or works by:

- Undertaking 'best practice' purchasing practices;
- Promoting market competitiveness through quoting and tendering, utilisation of Corporation panels and corporate suppliers;
- Benchmarking and monitoring the performance of contractors and suppliers to ensure high quality goods and services;
- Procurement through Purchasing Cooperatives that can demonstrate high levels of integrity in line with the Corporation's own policies and guidelines;
- Purchasing through strategic G6 Purchasing contract arrangements in line with G6 Purchasing Policy Guidelines;
- Taking advantage of opportunities to develop open and effective relationships with the Corporation's business partners such as suppliers, contractors, and consultants; and
- Not disclosing the actual budget allocated to individual tenders or purchases.

3.4 Efficient Purchasing Processes

The Corporation will undertake its purchasing activities in the most effective and efficient manner to minimise the administrative costs associated with purchasing by:

- Seeking opportunities to streamline purchasing processes;
- Utilising technological advancements and electronic commerce applications, supported by appropriate controls aimed at reducing the administrative costs associated with purchasing;
- Adopting a clear and consistent approach to its purchasing activities including the use of standard documents and contracts;
- Utilising Cooperatives such as G6 /MAPS/DETI contracts or other preferred supplier strategic purchasing arrangements;
- Utilising Panel arrangements through competitive tendering resulting in a more efficient engagement process.

- Seeking continuous improvement of purchasing practices by maintaining a program of training and professional development for staff.

3.5 Risk Management

The Corporation will ensure that appropriate practices and procedures of internal control and risk management are in place for its purchasing activities including risk identification, assessment and implementation of controls and publicity management.

The Corporation will utilise Probity Auditors for high risk, high value or complex contracts.

Managers will be responsible for ensuring appropriate practices and procedures for internal controls and risk management are adhered to.

3.6 Other Considerations

3.6.1 Environmental, Social and Economic Sustainability

If Environmental issues will affect the procurement decision making process, then those issues will be incorporated into the statement of requirements and the tender evaluation criteria will inform a potential tenderer of Council's priorities and requirements in respect of those environmental issues.

The Corporation has a commitment to environmental, social and economic sustainability. To support this commitment, the Corporation, where appropriate, will:

- 3.6.1.1 seek, when engaging suppliers, a minimum standard of environmental management which includes compliance with all applicable environmental laws, protection policies and the requirements of these, or the condition of any license or approval obtained from the Environmental Protection Authority;
- 3.6.1.2 promote procurement practices which recognise and integrate the social, economic and environmental needs of current and future generations as detailed in the Corporation's Environmental Sustainability Strategy and other policies.
- 3.6.1.3 include Tender Evaluation Criteria that examines the contractor's credentials in engaging contractors who display environmental considerations within their company or the products they offer. This may be in the form of practices which:
 - reduce impact on the environment eg low pollution, minimisation of greenhouse gas emissions, use of carbon neutrality schemes and reduced transportation;

- minimise the impact of disposal, including packaging considerations, recycled content and long life products, thus reducing waste to landfills; and
- promote resource conservation including water efficiency, energy conservation and recycled content.

3.6.2 Youth Employment and Training

The Corporation has a commitment to maximising the skills development and employment opportunities available to young people in the City. To support this commitment, the Corporation, where appropriate, will include Tender Evaluation Criteria that examines the Contractors credentials in engaging apprentices, trainees and cadets in their work practices to the extent that it does not negatively impact on cost effectiveness for services tendered, OHS&W requirements, timeliness or disadvantages small business.

3.6.3 Buy “Australian Made”

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

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

3.6.4 Local Business

With the aim of achieving a value for money outcome, Corporation will endeavour to, at its discretion and to the full extent permitted by law, support local businesses by:

- 3.6.4.1 actively promoting to local businesses opportunities to supply to the Council;
- 3.6.4.2 structuring the purchasing processes to be accessible to all businesses;
- 3.6.4.3 giving preference to local business when all other commercial considerations are equal;

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

4. LEGISLATIVE REQUIREMENTS AND CORPORATE POLICY CONTEXT

In adopting this policy it is recognised that there are specific legislative requirements to be met as well as other Corporate goals.

4.1 *Legislative Provisions*

Relevant major legislative requirements are the:

- Local Government Act 1999;
- Trade Practices Act 1974; and
- Competition Policy Reform (South Australia) Act 1996.

This Policy complies with the requirements of the Local Government Act 1999 and Regulations. In terms of specific requirements, Section 49 of the Local Government Act 1999 requires Council to prepare and adopt policies on contracts and tenders, including policies on the following:

- the contracting out of services;
- Competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
- the use of local goods and services; and
- the sale or disposal of land or other assets.

In addition the Policies must:

- 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;
- Provide a fair and transparent process for entering into contracts in those circumstances; and
- Provide for the recording of reasons for entering into contracts other than those resulting from a tender process.

The Act also requires:

- 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).
- 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.

- A person is entitled, on payment of a fixed fee by the Council, to a copy of a policy under this Section.

4.2 Corporate Policy Context

This Policy is to be implemented in conjunction with the Council's Strategic Directions and other relevant Council Policies and Strategies including:

- Competitive Tendering Policy;
- Sale and Disposal of Land and Other Assets Policy.
- Leases and Licences Policy (to be established)

The Councils Code of Tendering, being a separate document, forms part of the Purchasing Policy.

Appendix 1 to the Purchasing Policy

Adopted by Corporate Strategy & Performance Committee on 22/9/2008

- **Code of Tendering**

The Corporation of the City of Adelaide (the 'Council') is committed to achieving value for money for its community. The Council is committed to values of continual improvement, increased productivity, safe and healthy workplaces, enhanced performance and high quality works and services to support the economic, environmental, cultural and social life of the City. The ethics that govern best-practice tendering procedures underpin this Code, and this Code reflects the Council's commitment to these values. This Council believes significant benefits will flow to the community from encouraging high ethical standards in tendering.

1. Objectives

This Code has been developed as a guide to good practice in tendering for the Council and potential tenderers. The objectives of the Code are to ensure high quality works, goods and/or services are obtained that are value for money. The Council aims to treat tenders in a fair and timely manner. The Code sets out the Council's expectations of tenderers and the steps that the Council will follow when tendering for goods, services or works.

2. Application of the Code of Tendering

This Code applies to all tendering which the Council undertakes. The Code gives guidance on the process of tendering and registrations of interest. Other standards, codes and guidelines may be relevant to the Council's tendering. The principles in this Code of Tendering are consistent with national codes and standards.

3. Principles of Tendering

The tender process aims to be fair to all parties.

Best endeavours are used to demonstrate fairness to tenderers and potential tenderers.

The Council provides detailed specifications to allow tenderers to bid for and price work accurately and tender documents clearly specify Council's required outcomes.

Conflicts of interest are to be disclosed immediately and dealt with according to probity guidelines.

The Council does not participate in, and actively discourages other parties from improper tendering practices such as collusion, misrepresentation, and disclosure of confidential information.

The Council seeks to constrain the cost of tendering to both the Council and tenderers.

4. Tendering Process

Any questions concerning the tender process are raised with the person(s) nominated in the tender documents.

Tender documents specify lodgement requirements.

Tender submissions are directly affected by the *Freedom of Information Act, 1991* (SA). However, by their very nature tender submissions are likely to fall within the definition of exempt documents and therefore not be required to be produced to third parties.

The Corporation will endeavour to respect the confidentiality of submissions and will not disclose them to the public except where the disclosure is permitted or required by law.

In deciding whether or not to disclose Tender/ROI submissions requested under FOI legislation, Council will ensure that the FOI officer receives advice from a legal practitioner.

All proponents/tenderers will be required to maintain confidentiality with respect to their own competing submissions, and will not be permitted to advance their own bids via the media without the prior written approval of Council.

The Council may conduct a pre-tender briefing and may determine not to give additional information apart from that briefing.

Minutes of pre-tender briefings will be recorded and distributed by the Council to attendees upon request.

5. In-House Tenders

Council Business Units may submit tender bids for goods, services or works that are externally tendered.

Probity will be maintained by separating within the Council, the roles of the client (purchaser) and provider (bidder), during each stage of the tender process. In-house bids will not receive preferential treatment and will be required to allocate and identify all costs associated with providing the goods, services or works.

Tender documentation will indicate if an in-house bid is to be submitted.

6. Public Notice and Display of Tenders Received

A public notice in *The Advertiser* starts the open tender process by advertising publicly the purpose and nature of the contract or project and the date the tender closes. Open tender information will also be available for download from the Adelaide City Council web site or from an alternatively approved Government tender web site.

The Council may also advertise in another newspaper or publication.

Open tenders are advertised in a daily newspaper circulated throughout South Australia.

The closing time for tenders will be stated in the public notice.

Information relating to the status of tenders sought by the Council at any given time is available from the www.adelaidecitycouncil.com tenders web site or alternatively approved Government tender web site.

Unless there is an issue that impacts on the ability of the Council to evaluate and award the tender, all Open Tenders are listed on the Public notice board in the Customer Centre after opening and are displayed for a reasonable time after the tender has closed. The General Manager, Corporate Strategy & Performance must approve the decision not to display open tenders after opening. The prices submitted in tenders will not be displayed.

7. Invitation to Tender

A copy of the Code of Tendering is provided with all tender specifications.

The Council attaches standard Conditions of Contract for the project, works or services to the tender specifications or uses one of the current Australian Standards.

The Council offers the same tender documents to all respondents to an invitation to tender.

The Council may impose a fee for tender specifications related to the cost of printing tender documentation.

The Council will not request a tender deposit.

The Council may recall a tender at any time.

8. Tender Specifications

Tender specifications will include the categories comprising the tender evaluation criteria based on best quality and value for money outcomes.

The Council may develop specifications by considering requirements and views of the providers of existing service or similar services, whether in the public or private sector.

Specifications will identify any Council's assets to be made available to tenderers, whether in-house or external, and may set costs, terms and conditions for the use of the assets.

The Council may give additional information, written or verbal, to all respondents clarifying the meaning of the tender specifications. Tender documents will specify the Council's requirements as clearly and precisely as possible.

9. Registrations of Interest

The Council may use a Registration of Interest ('ROI') process before it invites tenders to assess the capacity of the respondents to undertake the work, project or development, and/or to seek feedback on draft specifications, and/or to refine specifications, and/or to shortlist respondents for a select tender.

A ROI process does not elicit tenders but may seek an indication of prices.

Evaluation criteria relating to the purpose of the ROI, will be included in each ROI.

The Council may invite select tenders from some, all, or none of the registrants.

Upon evaluation of the ROI, Council may determine not to invite select tenders from any of the registrants, and Council may proceed to negotiate directly with one or more registrant(s), for the purposes of seeking to negotiate a suitable contract relating to the subject matter of the ROI.

Respondents who are not invited to tender or negotiate with Council will be advised in writing. The Council may use the list of registrants to invite select tenders for the advertised contract, project or works.

10. Select Tender

The Council may undertake a select tender offered to a limited number of consultants, contractors or suppliers.

A select tender is offered where it is known there is a limited number who can provide the service, or in circumstances of urgency.

11. Use of Panels

The Council may establish Consultants and Contractors Panels of specialists through a tender process.

Evaluation tender weightings and criteria for Panel membership must be considered by Council prior to calling for tenders.

Recommendations for Panel membership must be presented to Council for consideration and determination (Council may approve, reject or question the recommended membership but, for probity reasons, will not be able to substitute its own assessment for that of the Tender Panel).

Any subsequent engagement of the Panel members to provide services for specific projects will be on the Council's terms and conditions as set out in the tender specifications and contract.

A select tender may be offered to Panel members.

The performance of Panel members will be monitored. The Council may, in its discretion, add new members to the Panel at any time during the term of the Panel so long as:

- (a) the application to join the Panel is assessed against and meets the same evaluation criteria as the original tender process for establishment of the Panel;
- (b) the requirements of the original tender process to establish the Panel are met, informal written submission, evaluated in accordance with the same tender criteria and approval of any additional Panel members by the relevant delegated authority.
- (c) the new member to the Panel signs up to a Panel Deed (or contract) in substantially the same form as that already executed by members of the Panel; and
- (d) the new Panel member's Panel Deed expires on the same date as that for the original Panel members.

12. Use of Cooperatives

A purchase may proceed without going to tender and approved in accordance with delegated authority limits of budgeted expenditure, where an existing contract is identified within an approved Purchasing Cooperative, providing course of action has been documented.

13. Tender Submissions and Non-Conforming Tenders

Late tenders are not accepted.

Any proposal that does not conform to the tender conditions may be rejected as non-conforming.

Errors substantially affecting the content of tender submissions may render it non-conforming.

Council is entitled to accept a non-conforming tender (have regard to the tender evaluation criteria set out in the tender and any specific non-conforming tender issues set out in the tender).

A tender can be withdrawn by a tenderer prior to acceptance by the Council by the tenderer providing written notification of such withdrawal to the Council.

Tender submissions are treated as confidential and are retained by the Council in accordance with its Records Management Policy.

14. Tender Requirements

Tender submissions are usually due a minimum of **14 days** from the date tenders are invited with any extension notified in a Tender Notification if complexity requires extension.

The tender submission period may be determined by the nature of the tender. The Council advises respondents in writing at the time of inviting tenders if a longer or shorter submission period is nominated.

15. Tender Evaluation

The Council evaluates tenders using Tender Evaluation Panels which have three or more members for each tendering process.

The Tender Evaluation Panel evaluates tenders according to tender evaluation criteria outlined in the tender.

A tender may allow for the short listing of respondents upon an initial tender evaluation. The tender specification documents must make specific reference to this process in these cases.

The Council may request a priced bill of quantities in the tender specifications, and may utilise a quantity surveyor to evaluate the merit of a priced bill of quantities including the identification of any errors in calculation.

The Council may require tenderers to accept the Council's proposed Contract as part of the tender criteria.

16. Negotiation of Contracts

The Council may close down (shutdown) a tender if there is no suitable tender submission and proceed to negotiate a suitable contract with preferred tenderer(s) or with any third party determined by the Council.

The Council will not trade the price of one tenderer against that of another tenderer.

In negotiating with tenderer(s) after the close down (shutdown) of a tender, the Council will have regard to the scope of the invitation to tender at all times.

17. Award of Contract

The decision to award a contract may be made by the Council or its officers in line with delegated authority.

The Council will notify unsuccessful tenderers promptly, in writing

The Council may advise reasons for the award of the contract.

18. Complaints Process

The Council will deal promptly with any complaints about the tendering process.

Each complaint is recorded in writing and logged to a register.

Each complainant is given an opportunity to discuss the complaint with the Chief Executive Officer or a delegated senior officer.

Council's Grievance Policy and Procedure has been developed and adopted in accordance with Section 270 of the Local Government Act. Copies of the Grievance Policy and Procedure are available for public inspection on the Adelaide City Council's website (www.adelaidecitycouncil.com) and at the Customer Centre, 25 Pirie Street Adelaide without charge.