

Procurement Policy



CITY OF
TEA TREE GULLY
Naturally Better

Record number	D19/43911
Responsible Manager	Manager Procurement & Contract Management
Other key internal stakeholders	Director Organisational Services & Excellence Manager Finance & Rating Operations
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Legal requirement	Local Government Act 1999 - section 49 - Council must prepare and adopt a policy on procurement, contracts and tenders.
Due date next review	2022

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PURPOSE

The purpose of this Policy is to establish a framework of broad principles relating to a procurement, tenders and contracts. This policy will also oversee how Council will consider approaches by the private and non-government sector for new and innovative outcomes for Council and the community. The existence of this Policy will assist to ensure a consistent, fair and transparent approach is maintained.

All service provision and procurement undertaken by Council must occur within the principles stated in this Policy.

This Policy is supported by Council's procurement procedures and practices.

POLICY

This policy gives consideration to procurement and Unsolicited Proposals.

This policy oversees how Council treats approaches by the market place proposing to undertake particular projects that intend to provide unique and innovative outcomes for Council and the community. This Policy has been developed in order provide guidance as to the treatment of aspirational approaches initiated by the market to Council, with the aim of successfully being awarded contracts with Council for the provision of goods, works or services.

This Policy is underpinned by eight key procurement principles. Procurement incorporates all purchases of any value.

Unsolicited Proposals

The guidelines outline essential steps in the processing and assessment of such proposals.

Whilst Council is not obliged to adhere to these steps and indeed some of those are not directly applicable within a local government context, they are provided below for reference only, as to how the State treats such proposals;

- a) Requirement to complete online forms and templates;
- b) Formal lodgement of the proposal via an electronic means;
- c) Present an initial proposal if certain qualification criteria are met;
- d) Perform a detailed feasibility proposal if initial proposal criteria are met;
- e) Undertake contract negotiation if the detailed proposal warrants this.

Assessment

In order to ensure an Unsolicited Proposal received by Council does not duplicate a current or previous procurement evaluation process initiated by Council, it will verify that the proposal is unique and requiring further assessment.

The principles of probity and fair and equitable procurement activities will be observed when making this assessment as set out in this Policy.

Exclusivity

Council's default procurement method will be to invite or request proposals from the market, and apply procurement governance principles in assessing and evaluating any proposals it subsequently receives in response to invites or requests.

However there may be unique occasions when an Unsolicited Proposal represents an opportunity where a desired outcome can be attained by negotiating exclusively with the proponent/s of that proposal.

If Council wishes to enter into exclusive negotiations with a proponent of an Unsolicited Proposal, the proposal must:

- a) Be solely limited to the proponent/s for the purposes of developing the specific Unsolicited Proposal
- b) Be granted for a limited time period.

During the period of the exclusive negotiation, similar rights will not be granted to another proponent if that other proponent happens to offer a proposal that is substantially similar to that for which exclusive negotiations have already commenced.

However, Council may enter into negotiations with more than one proponent if it has received multiple Unsolicited Proposals, concerning the substantially same subject matter, prior to ultimately selecting a successful proponent if warranted.

Evaluation Criteria

The CEO will develop evaluation criteria for all Unsolicited Proposals in the same manner as formal tender processes.

Procurement

Strategic focus

This Policy is designed in accordance with Council's strategic direction, particularly in the areas of prosperity and governance.

Key principles for procurement

Value for money

Purpose: To deliver the best overall result for money spent through applying a strategic and cost effective approach to procurement.

Principles:

- Planning purchases within well-defined objectives and methods, and minimising rushed decisions
- Researching the market
- Maintaining and developing a competitive market
- Drafting a careful and detailed specification to reduce the risk of costly variations in the future

- Establishing appropriate evaluation criteria such as compliance to the specification and Council's needs, commercial matters, community service obligations, whole-of-life cost (which takes into account all aspects of cost over time including capital, maintenance, management, disposal and operating costs) and supplier support
- Negotiating with suppliers to clarify ambiguities and contractual terms and conditions
- Working in partnership with suppliers
- Investigating the quality and reliability of supply offered.

Open and Fair Competition

Purpose: To foster and maintain open and fair competition by providing suppliers and contractor's appropriate access to Council procurement opportunities (and thereby also facilitating the achievement of value for money).

Principles:

- Conducting all dealings with suppliers in an honest and impartial manner
- Following Council's procurement methods
- Including evaluation criteria and methodology in request for tenders which will allow suppliers / contractors to understand requirements and offer their best solutions
- Ensuring a transparent decision making process
- Promoting internal procurements procedures
- Ensuring knowledgeable Employees are available to answer suppliers / contractors queries
- Maintaining a records system for purchases which will satisfy scrutiny
- Providing all suppliers / contractors with consistency of information.

Professional Integrity and Probity

Purpose: To observe the highest standards of integrity, probity and professional conduct in procurement practices.

Principles:

- Exercising appropriate levels of delegation and separation in the decision making process
- Ensuring equal treatment of all suppliers
- Observing Council procurement procedures
- Maintaining confidentiality
- Not divulging Commercial-in-Confidence information to actual or potential suppliers or their competitors
- Not accepting gifts or favours from actual or potential suppliers which might compromise the integrity of the procurement process
- Avoiding conflicts of interest
- Employing accredited Employees to manage and coordinate department procurement
- Ensuring that the experience and expertise of officers conducting procurement is commensurate with the nature of the procurement being undertaken
- Providing ongoing procurement skills training
- Establishing procedures to ensure ethical practices and avoid conflicts of interest
- Compliance with the Fraud and Corruption Policy.

Client Service

Purpose: To identify the needs of end users and satisfy those needs with goods and services fit for the required purpose, purchased and delivered efficiently and at a competitive price.

Principles:

- Identifying the needs of Council
- Procurement should assist internal clients to satisfy Council's annual and long-term strategic plans
- Purchasing Delegates within Council have appropriate understanding of the client's needs and the skills and experience to purchase on behalf of those clients.

Risk Management

Purpose: To identify risks, minimise uncertainty, and improve risk profiles thereby contributing to the achievement of better value for money.

Principles:

- All procurement practices will consider the risks associated with the procurement and the controls and practices will be implemented to minimise Council's risks to acceptable levels.

Accountability

Purpose: The CEO is responsible to ensure the overall integrity and efficiency of procurement structures and processes.

Principles:

- Officers undertaking procurement for Council must maintain and continue to develop their procurement competencies to satisfy their responsibilities
- Purchasing and expenditure delegates will act in a planned manner within the boundaries of their delegations and Council policies and procedures and are responsible for purchasing decisions
- Clearly establishing purchasing and expenditure delegations to individual officers
- Establishing and maintaining internal controls and audit processes
- Accountabilities and processes apply to the procurement of both goods and services
- Ensuring that goods and services purchased are delivered, in accordance with the purchase order or contract, and used solely for Council business or in accordance with Council policy.

Simplicity

Purpose: To ensure procurement processes are clear, straightforward, readily implemented and easily monitored.

Principles:

- Purchasing from approved contracts or standing offers, including LGA Procurement or other arrangements, where appropriate
- Using standard terms and conditions
- Using open and generic specifications
- Streamlining business practices
- Purchasing practices must be effective and efficient.

Buy Local

Purpose: Council will endeavour to, at its discretion support Local businesses where Local City Tea Tree Gully suppliers can demonstrate capability, capacity and competitiveness.

Principles:

- Promoting a buy Local philosophy, where it is competitive and represents value for money
- Fostering good relations with Local suppliers and industry bodies
- Providing feedback to Local suppliers / contractors where necessary
- Implementing an annual education and awareness session for local businesses
- For quotation, at least 1 quote is invited from a Local City Tea Tree Gully supplier where a suitable supplier is able to be identified unless sourcing from an approved standing offer panel
- Encouraging supplier diversity that supports Aboriginal & Torres Strait Islander's business and/or employment

Environmental Sustainability

Purpose: To support a sustainable procurement approach within the procurement planning, Council will seek to:

- align the Council's procurement activities with principles of environmental sustainability
- purchase recycled and environmentally preferred products where possible
- encourage the purchasing of products that are reusable, recyclable and/or contain recycled content where such products fit the purpose, provide environmental benefits and are of comparable costs and quality to alternative products

Procurement Approach

Generally, Council will purchase goods / services through the adoption of one or more of the following approaches:

- Sole source purchase - where there is only a single supplier or the particular circumstances warrant the involvement of only one potential supplier
- Quotation - seeking quotations from two or more suppliers
- Sourcing from established agreements such as, Local Government Association Procurement, etc. contracts or as established in the "Standing Offer Panel List"
- Selected tender - seeking tenders from a limited number of suppliers on the basis of, for example, location, previous performance, the result to an expression of interest process
- Open tender - seeking tenders from the market at large through an open invitation process
- Joint tender - seeking tenders as part of the LGA Procurement or part thereof, or another partner

When identifying the circumstances in which to apply these options, Council will consider a number of issues, including:

- Whether the existing contracts have the flexibility to procure outside of the contractual arrangement in place.
- Public policy concerns (e.g. economic, environmental or social) if supported by justifiable reasons
- The total estimated value of the purchase
- Delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of supply
- Previous experience with suppliers / contractors

- Compliance with statutory obligations
- The existence of Local suppliers of the goods or services and the impact on the Local economy if the goods or services were purchased from outside the council area
- Ability of the contracted preferred supplier to deliver goods or services to Council’s expectations.

A tender process, including a registration of interest, request for proposal or open / select tender, is to be undertaken for procurement where the estimated expenditure is over \$100,000 (ex GST). Where the estimated expenditure is less than \$100,000, the procurement is to be undertaken in accordance with the Purchasing Procedures and Quotation Guidelines. Council reserves the right to enter into contracts where value for money may be achieved without a competitive tender process, for example sole source purchasing, or in the case of emergency situations. Reasons for taking this approach will be recorded.

A summary of Council’s procurement approach, which may be varied at the discretion of the CEO is as follows:

Estimated Value (excl-GST)	Method of Procurement
\$0-\$20,000	Verbal quote(s)
>\$20,000 -\$100,000	At least 3 written quotes
>\$100,000	Tender Process

The above table is to be read in conjunction with the Purchasing Procedures and Quotation Guidelines. If the procurement approach is varied, the reasons for any variations will be recorded in writing.

Tenders and Contracts

Council will undertake continued assessment and monitoring of the provision of the services once a contract or tender has been awarded.

Council undertakes to achieve best practice in tendering and contracts through proper implementation and review of its procurement policy and procedures.

The Decision Making Process

Council will delegate the appropriate authority to the CEO to make decisions regarding the matters covered in this Policy where the value of the contract is estimated at less than \$1,000,000 per annum (excluding GST), and less than \$4,000,000 in total or where:

- The procurement is a Purchasing Cooperative contractual arrangement (e.g. Local Government Association Procurement, Procurement Australia)
- It relates to Energy Procurement
- Expenditure authorisation is needed for service charges relating to Government Levies, SA Water, Electricity, or insurance premiums.

Council or its officers with delegated authority will, when making decisions under this Policy, act in accordance with the Council’s budget, long term financial plan, relevant policies, plans, industrial awards and agreements, resolutions, and all relevant statutory or common law requirements.

Council acknowledges that the CEO may subdelegate matters related to this Policy to Employees or other persons employed or engaged by Council.

Council may also delegate matters covered by this Policy to its committees or subsidiaries.

Any variation to a lump sum contract where the following conditions apply will be reported to Council:

- The total sum of the contract (including all variations) is in excess of \$1,000,000 per annum
- The total variations on any contract over \$500,000 are in excess of 10% of the contract sum.

There are restrictions in relation to making decisions about contracts that exceed a particular value during an election period. These are set out in Council's Caretaker Policy.

Policy on Disclosure

During procurement processes Council may receive confidential information from third parties wishing to form contractual relationships with Council for the provision of goods, works and services. In accordance with the Local Government Act 1999 and the Freedom of Information Act 1991, certain tender and contract information may become publicly available.

All tenders that are presented to Council or Committee for consideration will have the successful tenderer's name, price and a brief selection reason publicly released, in accordance with section 91(8) of the Local Government Act 1999 upon release of documents bound by confidentiality orders of Council.

It is a condition of tendering that tenderers:

- Advise their acknowledgement of and agreement to comply with this Policy
- Identify that part of their submission (if any) that they do not wish to be made public if their bid was to be successful and the grounds for exclusion based on the criteria outlined in this Policy

Documentation

To assist in demonstrating that its service provision and purchasing processes are cost effective, fair, transparent and accountable, and meet community needs, the reasons for entering into contracts other than those resulting from a tender process will be documented.

Review and Evaluation

The effectiveness of this Policy will be reviewed and evaluated annually by administration within Council's strategic planning framework. The CEO will report to Council on the outcome of the evaluation, and make recommendations for amendments, alteration or substitution of a new policy, if relevant.

The Policy will not be altered or substituted so as to affect a process already commenced.

LEGISLATIVE FRAMEWORK

The following legislation applies to this Policy:

Local Government Act 1999

This Policy has been developed and adopted in accordance with section 49 of this Act that states:

- Council must prepare and adopt a policy on contracts and tenders, including the following:
 - The contracting out of services
 - Competitive tendering and the use of other measures to ensure that services are delivered cost-effectively
 - The use of Local goods and services
 - The sale or disposal of land or other assets (see Land and Assets Policy).
- The policies must:
 - Identify circumstances where Council will call for tenders for the supply of goods, the provision of services or the carrying out of works
 - Provide a fair and transparent process for calling tenders and entering into contracts in those circumstances
 - Provide for the recording of reasons for entering into contracts other than those resulting from a tender process.

Section 91(8)(b)-(c) of this Act states that the Council must not prevent the disclosure of:

- The successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by Council as to why a successful tenderer has been selected
- Amounts payable by the council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the Council after the contract has been entered into by all parties to the contract
- The identity of land that has been acquired or disposed of by the council or of any reasons adopted by the Council as to why land has been acquired or disposed of by the Council.
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There is no legislative requirement for Council to consider Unsolicited Proposals.

Other references

Council's document including:

- Caretaker Policy
- Fees and Charges Register
- Fraud, Corruption, Misconduct and Maladministration Prevention Policy
- Land and Assets Policy
- Private Use of Council Vehicle's Policy
- Prudential Management Policy
- Purchasing Procedures and Quotation Guidelines
- Risk Management Policy
- Volunteer Handbook