

Procurement Policy

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Responsible Division	Corporate
Related Documents	<p>Asset Accounting Policy</p> <p>Caretaker Policy</p> <p>Complaints Handling Policy</p> <p>Code of Conduct for Council Employees</p> <p>Behaviour Management Policy (Model)</p> <p>Corporate Credit Card Procedure</p> <p>Disposal of Council Assets (Excluding land and road) Policy</p> <p>Environmental Sustainability Policy</p> <p>Financial Delegations List</p> <p>Fraud, Corruption, Misconduct and Maladministration Prevention Policy</p> <p>Information Management Policy</p> <p>Internal Financial Controls Policy</p> <p>LGA Conflict of Interest Guidelines</p> <p>National Competition Policy (Federal)</p> <p>Procurement Procedure</p> <p>Project Management Policy</p> <p>Prudential Management Policy</p> <p>Public Consultation Policy</p> <p>Risk Management Policy</p> <p>Safe Environment Policy</p> <p>Work Health Safety and Return to Work Policy</p>
Applicable Legislation	<p><i>Children's Protection Act 1993</i></p> <p><i>Competition and Consumer Act 2012</i></p> <p><i>Competition Policy Reform (SA) Act 1996</i></p> <p><i>Criminal Law Consolidation Act 1935</i></p> <p><i>Fair Work Act 2009</i></p> <p><i>Freedom of Information Act 1991</i></p> <p><i>Independent Commissioner Against Corruption Act 2012 (ICAC)</i></p> <p><i>Industry Advocate Act 2017</i></p> <p><i>Local Government Act 1999</i></p> <p><i>Local Government (Elections) Act 1999 – Caretaker provision</i></p> <p><i>Local Government (Financial Management) Regulations 1999</i></p> <p><i>Modern Slavery Act (Cth) 2018</i></p> <p><i>Ombudsman Act 1972</i></p> <p><i>State Records Act 1997 (SA)</i></p> <p><i>Trade Practices Act 1972</i></p> <p><i>Work Health and Safety Act 2012 and Regulations 2012</i></p>

1. Purpose

The responsible and publicly accountable expenditure of funds by Alexandrina Council is to be conducted efficiently and effectively to achieve optimum overall value for Council and its ratepayer's whilst ensuring that all expenditure is:

- Conducted in a consistent and controlled manner.
- Compliant with legislation and best practice principles.

- Undertaken with high levels of probity and transparency.
- Aligned to the values and related policies of Council and its community.

This policy has been developed to align with the requirements of section 49 of the *Local Government Act 1999 (Act)* and is not intended to conflict with any other legislative requirements.

2. Scope

This policy applies to the procurement of all goods, services and works and is binding upon all persons undertaking this process on behalf of Alexandrina Council.

This Policy does not cover:

- Expenditures such as sponsorships, grants, funding arrangements, donations and employment contracts.
- The acquisition of land by the Council.
- The disposal of land and other assets owned by Council.
- Procurement processes during the Council Caretaker period. These will be conducted under the requirements of the relevant caretaker policy.

3. Definitions

Procurement Plan a document that outlines the procurement methodology and sourcing strategy to be undertaken in a proposed procurement.

Approach the market the formal process of notifying one or more potential suppliers of a procurement opportunity and inviting them to submit an offer, quote, tender, response, proposal, submission, bid or registration.

Buyer A generic term to describe the organisational role of someone whose job involves acquiring goods and/or services. Buyers may also include managers and senior executives who are the prime value-for-money decision-makers for major procurement projects that are facilitated by specialist procurement staff. Buyers may not have procurement as their single focus.

Conflict of interest form A document signed by all staff and consultants involved with a procurement process to indicate that they do not have a personal or professional conflict of interest with the procurement project.

Consultant A consultant is a particular type of contractor that is engaged primarily to perform a discrete task for an entity that facilitates decision making through:

- provision of expert analysis and advice
- development of a written report or other intellectual output

(Source: Department of Treasury and Finance, *Financial Reporting Directions 22G Standard disclosures in Report of Operations November 2015*)

Contract An agreement between two (2) or more authorised persons on behalf of their organisations to perform or not perform a specific act that is enforceable in law. A contract may be verbal, written or inferred by conduct.

Contract documents construed together as one instrument of contract. They may include terms and conditions, specifications, drawings, delivery and payment schedules.

Contract variation Is a mutually agreed amendment to vary the obligations set out in a contract for goods and services. A contract variation must be documented between the parties to form a deed of variation.

Contractor Is an individual or organisation that is formally engaged to provide works or services for or on behalf of an entity. This definition does not apply to casual, fixed-term or temporary employees directly employed by the entity.

(Source: Department of Treasury and Finance, Financial Reporting Directions 22G Standard disclosures in Report of Operations November 2015)

Corporate Credit Card Means a type of card issued to a corporation, where the business entity, not the business owner, is legally responsible for all charges made on the card.

Direct Purchase Procurement process undertaken by directly approaching and negotiating with one supplier without testing the market. This method is generally only appropriate for low value and low risk goods and services.

Due diligence The process of reviewing and analysing in detail the capacity of a bidding organisation to meet future contract performance requirements. This may include a detailed assessment of the organisation's financial stability, legal risks, technical capacity, and infrastructure.

Evaluation matrix A table that summarises the score or ranking of each offer against the procurement specifications.

Evaluation plan A document that details the methods, techniques and resources allocated to evaluate offers.

Expression of interest (EOI) Used to identify suppliers interested in, and capable of, delivering the required goods or services. Potential suppliers are asked to provide information on their capability and capacity to do the work. It is usually the first stage of a multi-stage procurement process.

Financial delegation Is the authority to approve expenditure or enter into financial commitments on behalf of Council. All financial delegations apply to positions and not to individuals.

Force majeure Acts of God and other specified risks (i.e. terrorism) beyond the control of the parties to the contract and as a result of which a party is prevented from or delayed in performing any of its obligations under the contract. (The force majeure clause must be drafted into a contract).

Innovation is about turning ideas into reality. It is the creation of new products, technologies, processes and/or ideas that are thought to be better or more effective by the innovator than what is currently available. Innovation in procurement is about using the competitive market to come up with innovative solutions.

Lifecycle cost The total cost of an item or system over its full life. It includes the cost of development, production, ownership (operation, maintenance, support), and disposal, if applicable. Also referred to as whole of life cycle cost or total cost of ownership.

Market Approach The process undertaken to inform the market of your requirements to obtain offers to meet your requirements.

Open market approach (also known as an open tender) The process of publicly inviting tenders usually through the release of a request for tender (RFT) or expression of interest (EOI) to the open market.

Pre-qualified Suppliers A list of suppliers who meet certain criteria, usually including WHS, insurances, licences, quality and environmental certifications. A procurement process needs to be undertaken by the buyer to determine which supplier offers best value for money.

Probity Uprightness, honesty, proper and ethical conduct and propriety in dealings. It is often also used in government in a general sense to mean good process.

Procurement All the business processes associated with sourcing activity, spanning the whole cycle from identifying needs to the end of a service contract or the end of the useful life and subsequent disposal of an asset. It also includes the organisational and governance frameworks that underpin the procurement function.

Procurement process The step-by-step process for the planning, establishment and contract management of small and large acquisitions.

Product Liability Insurance Covers against legal liability for personal injury or property damage arising as a consequence of a defective product (including repairs)

Professional Indemnity Insurance Covers against legal liability which may arise out of an act, omission or breach of professional duty in the course of business such as the provision of negligent advice. It is only required where professional advice or services are being supplied.

Public Liability Insurance Covers against legal liability for personal injury or property damage arising as a consequence of duty of care to third parties.

Purchase order A form of contract, which is an official document used to authorise and record the purchase of goods or services by a buyer. It is the prime reference confirming the contractual situation between the buyer and supplier.

Purchasing the acquisition of goods and/or services from a nominated supplier. Purchasing is a component of the wider function of procurement and consists of activities such as ordering, expediting, receipt and payment. Often used interchangeably with procurement.

(Source: Adapted from P&SM Jargon Buster, The Chartered Institute of Purchasing & Supply)

Quotation/quote An offer to supply goods and/or services, usually in response to an invitation to supply known as a request for quotation. Often used interchangeably with proposal, tender, bid and offer.

RFI A 'Request for Information' is an informal means of researching the particular good or service and the possible solutions or approaches available in the market.

RFQ A written process of inviting offers to supply goods and/or services involving simple documentation and a limited number of potential suppliers.

RFT An invitation to supply or a request for offer against a set of clearly defined and specified requirements. Invitees are advised of all requirements involved including the conditions of participation and proposed contract conditions.

RFx Covers request for information (RFI), request for quotation (RFQ), request for tender (RFT)

Respondent (invitee, supplier, bidder) someone who has or intends to submit an offer to an organisation. Often used interchangeably with potential suppliers or tenderers.

SA Tenders and Contracts SA Tenders and Contracts means the South Australian Tenders and Contracts website (www.tenders.sa.gov.au)

Scope of work The range of activities to be undertaken as part of a contract for services. The scope of work may specify what has to be done and by when. See also Specification.

Social Procurement The generation of positive social outcomes through purchasing and procurement processes which are over and above the delivery of the goods or services required.

Specification There are commonly three different types of specifications: Functional, Performance and Technical. Specifications can be simple or complex depending on the procurement objective and outcome sought.

Specifications should avoid the use of proprietary standards and specify the requirements in such a way as to maximise the opportunity for competitive offers from a variety of suppliers.

Supplier An entity that could provide, is providing or has provided goods, services or works.

Value for money Achieved in procurement by finding the optimum balance of financial and non-financial factors including whole of life cost (lifecycle cost).

4. Policy Statement

Alexandrina Council is committed to implementing fair, transparent and competitive purchasing and contracting practices achieving optimum value for money outcomes aligned to the Council's strategic objectives, community expectations and the requirements of any special funding sources.

5. Procurement Objectives

Alexandrina Council is committed to achieving a range of objectives through its procurement processes that may be considered alongside achieving value for money outcomes. Such objectives should be supported by appropriate evaluation criteria and weightings and decisions of Council. Procurement activities undertaken by Council can include the following procurement objectives.

5.1 Achieve value for money

Value for money outcomes can be achieved through balanced consideration of financial and non-financial factors relevant to the procurement.

The following factors should be considered:

- Fitness for purpose of the proposed goods or service and warranties.
- Whole of life costs including acquiring, using, maintaining and disposal.
- Trade-in values.
- Council's internal administration costs.
- Technical compliance issues and costs.
- The contribution to Council's long-term plan and strategic direction.

- Any relevant direct and indirect benefits to Council, both tangible and intangible.
- Risk and WHS considerations.
- Social and Environmental benefits and/or impacts.
- Maintenance and promotion of effective supplier relationships.
- The development and encouragement of competitive local business and industry.
- Prevailing market forces and trends

5.2 Ethical Behaviour and Fair Dealing

All persons undertaking procurement activities are required to behave with impartiality, fairness, independence, openness and integrity in all discussions, negotiations and ongoing management of the contracted goods and services.

5.3 Probity, Accountability and Transparency

Any purchasing and contracting activities conducted by Alexandrina Council will apply the highest standards of integrity, accountability and transparency.

- All records relating to a procurement process must be created and retained according to legislative and organisational requirements, including evidence of processes undertaken, information received, meetings held, communications, approvals and decisions.
- All exemptions from this Policy must be documented and filed.
- Staff will ensure appropriate management of confidential information, conflicts of interest, gifts and gratuities in accordance with related policies and codes of conduct.
- All purchasing decisions are to be transparent, clearly documented and justifiable if subjected to audit, public scrutiny and any potential legal challenge.
- All processes will be conducted in a consistent and transparent manner with due regard to the commerciality of the process.
- Information gathered from suppliers will be treated as “commercial in confidence” and only disclosed and used for the purposes it was gathered for.
- Confidentiality requirements (as per section 90(3) of the Act) will be considered for all reports presented as part of a Council Agenda.

5.4 Open and Effective competition

Alexandrina Council will provide supplier markets with clearly defined and scoped opportunities to provide goods and services. This approach will provide visibility of requirements and process to the Council, ratepayers and suppliers and encourage a more competitive environment. It will include:

- Providing opportunities for new suppliers to conduct business with Council.
- Staff conducting a procurement process providing timely responses to all queries and considering the provision of such advice to all other interested parties depending on the nature of the response.
- All respondents being offered feedback on unsuccessful tenders and/or quotes to demonstrate transparency of the procurement process and the opportunity for continuous improvement.

5.5 Social Impact on Procurement Outcomes

Alexandrina Council supports the intentional generation of social value through procurement processes that can occur through engaging with minority or under-represented suppliers such as:

- Indigenous Suppliers.
- People with a disability or supporting organisations.
- Small to medium enterprises particularly if locally based.

5.6 Environmental Considerations

Alexandrina Council supports protection of the environment through its purchasing activities. In undertaking any purchasing activities Council will, wherever practical:

- Preferencing recycled and environmentally preferred products where possible.
- Adopt purchasing practices which conserve natural resources.
- Align the Council's procurement activities with principles of ecological sustainability.
- Select products and services which have lower environmental impacts across their life cycle compared with competing products and services.
- Integrate relevant principles of waste minimisation and conservation of energy.
- Provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

5.7 Local Economic Benefit

5.7.1 Alexandrina Council recognises the significant impact that its operations play in the local economy yet is mindful of its requirement to provide optimum value for money outcomes through its procurement activities and achieve budget expectations.

5.7.2 Council encourages the participation of local suppliers, contractors and manufacturers and provides where practical, opportunity for local economic benefit including use of Australian and locally manufactured goods.

5.7.3 Benefits of utilising local suppliers include:

- Creation of new and/or maintaining existing local employment opportunities.
- Assisting local suppliers developing management systems required for supplying to government which may provide further opportunities with other government agencies.
- Structuring the procurement process to be equally accessible to all businesses.
- Building beneficial relationships leading to higher levels of responsiveness and on-going support.

5.7.4 Alexandrina Council will give preference to Southern Fleurieu Peninsula business by ensuring where possible, and where all other considerations are equal, a minimum 30% non-price weighting is applied to contributing factors that include, but are not limited to:

- Locally based businesses, ranked in the following order:
 - Within the Southern Fleurieu Peninsula, then
 - Within the areas immediately surrounding the Southern Fleurieu Peninsula, then

- Within South Australia, then
- Interstate, then
- International
- Indigenous businesses and/or indigenous employment
- Social enterprises
- Environmental sustainability

5.7.5 Where applicable the Office of Industry Advocate Industry Participation Policy shall be applied to determine the level of local investment in the Council region by potential suppliers and contractors, with requirements outlined in market documentation.

5.8 Risk Management

All procurement activities conducted by Alexandrina Council must be mindful of inherent and associated risks at all levels. The purchasing process must consider the following:

- A formal Risk Assessment must be completed where there are deemed to be high residual procurement risks.
- Risk management involves the systematic identification, analysis, evaluation, treatment, monitoring and, if appropriate, acceptance of risks.
- A probity advisor and/or auditor may be appointed to advise on or review the procurement activity.

5.9 Work, Health & Safety

Alexandrina Council is committed to applying all relevant Work, Health and Safety standards to its procurement and contracting processes and requires that:

- All suppliers of goods and services will, as a minimum, be capable of and agree to comply with the standards prescribed by the *Work Health and Safety Act 2012 (WHS Act)* and its Regulations.
- Additional Work Health and Safety requirements will be outlined in the request documents and resulting contract (or any other documents evidencing the agreement between Council and the supplier).
- Procurement of any plant, equipment and substances must be undertaken from manufacturers, suppliers or distributors who are able to demonstrate full compliance with the WHS Act.
- If the procurement of goods, materials or plant and equipment involves implications for work, health or safety, Council's Work Health & Safety & Risk Management team should also be consulted prior to such procurement.
- Where appropriate, procurement evaluation must ensure an appropriately skilled person confirms all WHS assessments.

6. Exemptions from this Policy

- 6.1 Where there are emergencies, or procurements in which a tender process will not necessarily deliver best outcome for the Council, other market approaches may be more appropriate.
- 6.2 Authority to provide an exemption from using the required method of procurement will be delegated to the Chief Executive Officer and reasons for any exemption to the procurement method must be documented.

- 6.3 The Chief Executive Officer in approving an exempt method will consider the scale, scope and relative risk of the purchase including the principles defined in this Policy.
- 6.4 A request for waiver of a competitive process should not be viewed as a mechanism to remove the need for rigorous procurement planning.
- 6.5 Situations where it may be appropriate to waive application of this policy and undertake an exemption request are:
- Emergency situations threatening life and or property.
 - Continuation of work or service under an existing purchasing arrangement (i.e. variations/extensions to existing orders or contracts).
 - Work, goods or service has already been subject to a recent competitive process and the pricing is still valid.
 - Work, goods or service is being provided under an existing purchasing arrangement (i.e. warranty, servicing, maintenance or defects liability).
 - The supply market is known to be limited.
 - Where knowledge, design and/or intellectual property is being retained to secure continuity of a staged initiative which may be disadvantaged (e.g. time, objective, financially) if subjected to a further competitive engagement process.
 - Where it can be demonstrated that a procurement process will not deliver best outcome for Council and the community.

6.6 Nominated Goods / Works / Services which are exempt from requiring a Quotation and using a Purchase Order for Payment

6.6.1 Please note: the items on this schedule may change from time to time based on Council's operational requirements. This information is provided as supplementary information to the Procurement Policy only and does not require endorsement by Council or its Committees as it is amended.

6.6.2 When paying by invoice only, and a contract exists, the contract number must be quoted in the notes section of the workflow (allowing contract spend to be captured).

6.6.3 Purchases for the following Goods, Services, Fees or Charges:

- statutory Government charges/levies
- vehicle registrations
- insurance charges
- media monitoring
- one-off postal services
- utilities (e.g. SA Water, Telstra, AGL, Origin Energy)
- refunds or reimbursements of expenses
- license, subscriptions and membership fees
- temporary labour hire and traineeship charges
- Employee Assistance Program Costs
- psychometric Testing
- Dial Before You Dig Services
- taxi fares
- parking
- travel and accommodation

- food and beverages
- internally generated invoices:
 - art sold on commission
 - tours and accommodation sold on commission
 - volunteer reimbursement
 - payments for committee members i.e. DAP, Audit and Risk Committee
- Emergency purchases, or situations threatening life or property, such as:
 - works requiring immediate rectification and/or restoration of essential services; or
 - components that meet the principles for 'standardisation' within the South Australian Community Wastewater Management System (CWMS) Design Criteria.

6.6.4 Where a purchase is made under this section, the following will apply:

- expenditure should be limited to that required to alleviate the emergency situation only; and
- officers must ensure that appropriate methods of purchase are resumed as soon as practical (i.e. purchase order generated, quotations sought for remainder of the goods, works or services other than that required for emergency response).

6.6.5 Services provided by a subsidiary under section 43 of the *Local Government Act 1999*:

- Waste services (Fleurieu Regional Waste Authority and Adelaide Hills Region Waste Management Authority)
- Fleurieu Regional Aquatic Centre
- Southern & Hills Local Government Association

7. Delegations

The Chief Executive Officer will determine appropriate thresholds for inclusion in delegation instruments.

- Other officers may only incur expenditure on behalf of Council if:
 - The officer has been granted the financial and/or contractual delegation by the Chief Executive Officer and this delegation has been recorded in the Delegation of Authority Register; and
 - The expenditure is provided for in Council's budget.
- By approving a requisition all officers are confirming that they have taken full notice of this policy and will comply with all requirements of this policy. The Delegation Authority is available on the Council's intranet.
- Approval to undertake a procurement requires confirmation that budget funds are available and uncommitted within the appropriate budget line. Expenditure outside of the adopted budget requires the formal approval of the General Manager, CEO or Council subject to the value and nature of the expenditure.

- Delegations pertaining to expenditure and purchasing are recorded in the Alexandrina Council's Delegations Register.

8. Procurement Thresholds

- 8.1 In-scope procurements are to be in accordance with Council's financial thresholds outlined in Councils Procurement Procedure.
- 8.2 The value of the procurement are calculated as follows:
- Single one-off procurement – the total amount, or estimated amount, of the procurement (ex GST);
 - Multiple procurements with same supplier– the gross value, or the estimated gross value, of the procurements (excluding GST); or
 - Threshold amounts are to be interpreted as the cumulative amount over the predicted life of the contract for the purposes of determining the appropriate procurement method and approval levels. (i.e. a proposed procurement with estimated budget of \$90k per annum exc. GST over two (2) years will be subject to Councils procurement methods as the cumulative amount over the predicted life of the contract will be \$180k in totality).
- 8.3 The value of a procurement or transaction is calculated across all elements of the procurement process including any contract options, variations, extensions and renewals (inclusive of GST) and should be considered in the planning phase of the project.

9. Cumulative Spend

- 9.2 Cumulative Spend should be monitored annually by Council to determine whether the appropriate procurement process has been undertaken and/or an alternative procurement method is required to be undertaken to comply with this policy.
- 9.3 Splitting the value of the purchase into individual components to meet with lower value of Purchase Thresholds is not permitted.

10. Procurement Methods

- 10.1 The method of procurement will typically be documented in a Procurement Plan, with reference to a number of factors including procurement complexity, value, risks, characteristics of the supply market, and Council's strategic objectives - and in accordance with procurement thresholds.
- 10.2 Persons with financial delegated authority to procure will be responsible for ensuring appropriate procurement practices and procedures including the identification of risk are observed.

10.3 Corporate Credit Card

- Use of the corporate credit card should be restricted to items where purchase orders are not accepted or upfront payment is required – for example flights, accommodation, or in cases of emergency.
- The corporate credit card may only be used for official Council business.
- Disciplinary action for breaches of use of the corporate credit card are managed through Council's Code of Conduct for Council Employees, the Fair Work Act and ICAC.

10.4 Direct Purchasing/Sourcing

- Direct sourcing is a procurement method undertaken by directly approaching and negotiating with one supplier.
- May be conducted where transactions are of low value and low risk.
- Prices should be tested for currency prior to awarding supplier to give consideration to Value for Money.

10.5 Expressions of Interest (EOI)

- Expressions of Interest are useful when the number of suppliers, market size or the approach to solving a problem is largely unknown.
- Such a process can form the platform for a future RFx for the goods and/or services required.
- Council should attempt to assess the market before conducting an EOI process and refine its requirements as much as possible to ensure responses are targeted appropriately.

10.5 Open Market Approach

- Invites respondents to submit contractual offers to be evaluated against pre-determined criteria.
- RFx (Request for Quote/Tender) documents should be tailored to the procurement with only the minimum information necessary to fairly evaluate quotes sought.
- Specifications should be based on a sound and unbiased understanding of market capabilities and commercial practices.

10.6 Panel Contracts and Strategic Alliances

- Council can meet its procurement requirements through contract arrangements already established and administered by other organisations that demonstrates adherence to the requirements of this policy, including:
 - LGA Procurement (via VendorPanel).
 - A purchasing group of which the Council is a member.
 - Some State Government contracts.
 - Ad hoc alliances created with other Local Government entities.
- Council may establish its own panel arrangements with a select group of suppliers to increase efficient procurement of goods and services.
 - Panels must be established following the principles of this policy.
 - Any panels must operate under a contract or Heads of Agreement structure and managed for performance and on-going value for money opportunities.

11. Availability of Policy

11.1 This Policy will be available for inspection on the Council's website www.alexandrina.sa.gov.au. Copies can also be provided upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

11.2 This policy is to be supported by an internal *Procurement Procedures* document.

- 11.3 Training of staff in the use and application of this policy is required to be conducted and may also form part of a new staff induction process.