

PROCUREMENT POLICY

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Reviewed	October 2019 (16 March 2020 Resolution Ref: ACM20528)
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Responsible Division	Resources
Related Documents	Procurement Procedure Disposal of Council Land and other Assets Policy Internal Financial Controls Policy Information Management Policy Safe Environments Policy Caretaker Policy Public Consultation Policy Fraud and Corruption Prevention Policy Complaints Handling Policy Financial Delegations List Prudential Management Policy Risk Management Policy Asset Accounting Policy WHS 036 – Contract Management Policy Employees Code of Conduct Elected Members Code of Conduct Alexandrina Council's Economic Development Strategy 2016 - 2022 LGA Conflict of Interest Guidelines
Applicable Legislation	<i>Local Government Act 1999 (SA)</i> <i>State Records Act 1997 (SA)</i> <i>Work Health & Safety Act 2012</i> <i>ICAC Act 2012 (SA)</i> <i>Children's Protection Act 1993</i> <i>Fair Work Act 2009</i> <i>Freedom of Information Act 1991</i> <i>Local Government (Elections) Act 1999 – Caretaker provision</i>

Introduction

In compliance with Section 49 of the Local Government Act 1999 (the **Act**), Alexandrina Council (Council) must refer to this policy (**Policy**) when acquiring goods and services.

Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:

- the contracting out of services; and
- competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
- the use of local goods and services.

Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

- obtaining value in the expenditure of public money; and
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in all operations.

This Policy seeks to:

- define the methods by which Council can acquire goods and services;
- demonstrate probity, accountability and responsibility of Council to all stakeholders in the expenditure of public money;

- be fair and equitable to all parties involved;
- enable all processes to be monitored and recorded;
- ensure that the best possible outcome is achieved for the Council;
- enable consistency of approach in the application of procurement processes; and
- support competitive local businesses wherever possible.

This Policy applies to all Council contracting and procurement activities and is binding upon Councillors, Council staff and temporary employees, contractors and consultants, or any other persons undertaking procurement on Council's behalf.

Definitions

In this Policy, unless a contrary intention appears, definitions have the following meanings.

Council the Alexandrina Council

Contracts Register a register of all procurement contracts entered into by Council

Direct purchasing means going directly to the source of supply.

Emergency purchases means emergency procurement, or situations threatening life or property.

Expression of interest (EOI) refers to the documentation submitted by potential suppliers in response to a Request for Expressions of Interest (REOI).

Goods is a physical or tangible item that does not include a labour component

Local business or supplier means a business or supplier who has its principal business within the Southern Fleurieu Peninsula.

Open Tender means undertaking a formal tendering process for a specific service in the open market.

Probity means a risk management approach to ensure the selection and decision-making process will be found to be honest, fair, transparent and defensible if scrutinised. A process conducted with regard to proper standards of probity will achieve both accountability and transparency and provide parties to the procurement process with fair and equitable treatment.

Procurement is a series of activities that are undertaken when purchasing goods and services, based on key phases: planning, purchasing, contract management. Each phase must be completed to ensure success.

Quotation means a proposal, bid or offer that is submitted either verbally (informal) or in writing (written) in response to a Request for Quotation (RFQ)

Request documentation collectively includes response schedules for request for quotes, request for tenders, expressions of interest.

Select tendering means a process in which selected potential suppliers are invited to submit offers or proposals for goods or services. It can be used as a second stage of a two-staged procurement process.

Service is the performance of a task, duties or work for another, by an individual or an organisation, which normally involves the provision of labour and/or professional services.

Supplier is a person or entity that provides goods, works or services to the Council.

Tender means a proposal, bid, or offer that is submitted in response to a Request for Tender. It is one of several different market-approach strategies.

Worker – A person is a worker (as defined in the *Work Health & Safety Act 2012*), if the person carries out work in any capacity for a person conducting a business undertaking, including work as:

- An employee

- contractor or subcontractor
- employee of a contractor or sub-contractor
- employee of a labour hire company who has been assigned to work in the person's business or undertaking
- outworker
- apprentice or trainee
- student gaining work experience
- volunteer
- person of a prescribed class.

Scope

The aim of this policy is to guide procurement activities associated with the acquisition of goods, works, services or consultants, and covers all aspects of the procurement lifecycle including planning, risk management, tendering, purchasing, contracting, documentation and financial control.

This policy applies to anyone who undertakes or is involved in procurement activities on behalf of Council. Compliance with the provisions set out in this policy is mandatory unless expressly indicated otherwise.

All Council procurement must comply with the restrictions documented in the Council's *Caretaker Policy* when Council is operating under Caretaker Mode.

This policy does not cover the following:

- non-procurement expenditure such as outgoing sponsorships, grant funding arrangements and donations (refer to the Alexandrina Council's *Community Grants Policy* and the *Community Donations Policy*);
- employment contracts;
- real property acquisitions;
- disposal of land and other assets owned by Council (refer to the Alexandrina Council's *Disposal of Land and other Assets Policy*), and;
- purchase of land by Council.

Policy Objectives

Council is committed to ensuring that all procurement activities deliver the following objectives:

- obtaining value for money;
- providing for fair, equitable, competitive and ethical behaviour in all procurement activities;
- ensuring probity, accountability and transparency;
- effective management of the end to end procurement lifecycle;
- identification and management of risk;
- consideration of environmental risk minimisation principles;
- providing economic development opportunities for competitive local businesses, employers and industry in the Southern Fleurieu Peninsula;
- procuring goods and services in neighbouring Council areas, if they are not available in the Southern Fleurieu Peninsula;
- providing reasonable opportunity for Indigenous owned businesses to supply to Council;
- to encourage the inclusion of not-for-profit organisations (social enterprises) that benefit the community (supporting programs for disadvantaged groups);
- ensuring compliance with all relevant legislation, licences, standards and industry practices.

Procurement Principles

Council's procurement is underpinned by the following key principles:

Principle 1 – Open and Fair Competition

Open and fair competition will be fostered and maintained by providing suppliers and contractors with appropriate access to Council's procurement opportunities. Adequate, identical and timely information will be provided to all suppliers to enable them to bid.

Principle 2 – Delivery of Value for Money Services to the Community

Value for money is not restricted to price alone, but is obtained through applying a strategic and cost effective approach. To ensure the best value for money, Council may assess the following:

- contribution to the Council's long term plan and strategic direction;
- any relevant direct and indirect benefits to Council or the Council area, both tangible and intangible;
- community expectation;
- efficiency and effectiveness of the proposed procurement activity
- the performance history, quality and scope of services and support of each prospective supplier;
- fitness for purpose of the proposed goods or service;
- whole of life costs including acquiring, using, maintaining and disposal;
- Council's internal administration costs;
- technical compliance issues;
- risk exposure;
- prevailing market forces and trends;
- the value of any associated environmental benefits;
- value to the development of the local economy, and;
- other relevant matters identified in specific procurement process documentation.

Principle 3 – Probity, Accountability and Transparency

Council will demonstrate accountability in procurement by ensuring that decisions are documented, able to be explained and evidence provided to ensure that an independent third party can clearly see that a fair and reasonable process has been followed. Personnel must document and be able to account and provide feedback for all decisions. Additionally, an audit trail must be visible for all procurement activities for monitoring and reporting purposes.

All purchases and procurement suppliers must be registered on the purchase ordering system prior to the procurement process being undertaken. A purchase order number must be included on all invoices submitted for payment.

Delegations define the limitations within which Council employees are permitted to undertake spending. Council personnel must not incur expenditure unless they have delegated authority, or approval to do so on behalf of a delegated officer, and they have ensured that funds have been allocated for that specific expenditure in a budget approved by Council.

Principle 4 – Effective Management of the End to End Procurement Lifecycle

The procurement lifecycle includes all of the steps and tasks within the procurement process, from need identification and data gathering to contract management, delivery of services/works and relationship with suppliers.

Council will determine appropriate methodology within the various steps of the procurement lifecycle including planning, risk management, tendering, and purchasing, contracting and financial control with

regards to the scale, complexity and importance of the goods, works, services or consultancies being acquired. Contract performance will be monitored and evaluated.

Principle 5 – Identification and Management of Risk

Risk Assessment

Council's 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.

Procurement risk assessments will focus on assessing a potential supplier's capacity and capability to meet Council's requirements and identify any other factors which might result in goods, services or works not being successful delivered.

Risk Based Approach to Market

Council's approach to market will be influenced by procurement risk assessments, with high risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

Work Health and Safety

Council will ensure that its procurement activities protect the health, safety and welfare of its workers, Elected Members, customers and community.

Principle 6 – Environmental Protection

Council endeavours, where reasonable practical, to promote environmental protection through its procurement processes. This may include:

- adopting purchasing practices which conserve natural resources;
- aligning Council's procurement activities with principles of ecological sustainability;
- purchasing recycled and environmentally preferred products where possible;
- integrating relevant principles of waste minimisation and energy efficiency;
- fostering the development of products and services which have a low environmental impact, and;
- providing leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

Principle 7 – Encouragement of Competitive Local Business & Industry

Council will adopt sustainable procurement methods which consider local economic and social inclusion elements such as employment creation and training opportunities. With the aim of achieving a value for money outcome and in alignment with the desired outcomes in the *Alexandrina Council's Economic Development Strategy*, Council will endeavour to, at its discretion and to the full extent permitted by law, support local businesses by:

- promoting and informing local business of opportunities to supply to the Council;
- giving consideration to support for providing local traineeships, apprenticeships;
- giving opportunity, where practical, to encourage participation, development and employment of local Indigenous people;
- giving consideration, where practical, to encourage the inclusion of not-for-profit organisations (social enterprises) that benefit the community (supporting programs for disadvantaged groups);
- structuring the purchasing process to be accessible to all businesses;
- giving preference to Southern Fleurieu Peninsula business ensuring where possible, where all other considerations are equal, by placing a 15% non-priced weighting on contributing factors that include, but not limited to;

- Environmental Sustainability;
- Social Enterprises, or;
- Indigenous businesses, or indigenous employment.

Locally-based businesses and suppliers should be preferred 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.
- that specifications and purchasing descriptions are not structured so as to potentially exclude local suppliers and contractors.

Principle 8 – Ensuring Compliance with all Relevant Legislation

Purchasing activities will be conducted in accordance with legislative and common law responsibilities. These include but are not limited to the *Local Government Act 1999 (SA)*, *Work Health and Safety Act 2012 (SA)*, *Fair Work Act 2009*, *Competition and Consumer Act 2010*, *Child Protection Act 1993*, *National Competition Policy* and other relevant legislation, industrial awards and agreements and international trade agreements.

Procurement Methods

To meet the requirements for open and fair processes, Council will select an approach to market method that ensures procurement activities deliver the most advantageous outcome for our community and the Council.

Council may, having regard to its Procurement Principles and any other factors considered relevant to the Council, at its absolute discretion determine appropriate procurement methods, the details of which are outlined within administrative processes supporting this Policy.

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

- value of the purchase
- cost of an open market approach versus the value of the acquisition and the potential benefits
- the particular circumstances of the procurement activity
- the objectives of the procurement
- the size of the market and the number of competent suppliers
- Council's leverage in the market place
- time constraints
- a comprehensive assessment of the risks associated with the relevant activity and/or project, including the risk profile of the procurement and any risks associated with the preferred procurement method.

The total value of a procurement will be calculated as follows:

- single one-off purchase – the total amount or estimated amount of the purchase (excluding GST)
- total value of multiple purchases – the gross value or the estimated gross value of the purchase (excluding GST)
- ongoing purchases with any one vendor who is providing comparable services on a single or multiple sites. Splitting of costs for identifiable projects, goods or services must not be undertaken to bring expenditure under the value range thresholds as outlined in the table below.

	Direct Purchase	Quotations	Select Tender	Open Tender
<\$10,000	✓	✓	✓	
\$10,001 - \$50,000		✓	✓	✓
\$50,001 - \$100,000			✓	✓
>\$100,001				✓

Exemptions from this Policy

This Policy contains general guidelines to be followed by the Council in its procurement activities. There may be emergencies or procurements in which a tender process will not necessarily deliver the best outcome for Council, and other market approaches may be more appropriate.

The authority to provide an exemption from using the required method of procurement will be delegated to the General Manager, Resources and then the Chief Executive Officer. Any potential exemption must be identified at the procurement planning stage, prior to any approach to market being undertaken. Reasons for requesting an exemption and the approval must be recorded in writing and registered in the Electronic Information Management System.

Reasons that a possible exemption may be requested include:

- emergency purchases, or situations threatening life or property.
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).
- the supply market known to be limited;
- unforeseen time constraints;
- continuation of work or service under an existing purchasing arrangement (i.e. variations/extensions or existing contracts);
- services provided by a subsidiary under s.43 of the Act (refer to Schedule 1);
- where it can be demonstrated that a procurement process will not deliver the best outcome for Council, this may include but not limited to;
 - a contractor or consultant who has considerable background knowledge and experience, or;
 - specialist expertise on a particular Council project or asset e.g. an extension of a previous project.

In such situations the procurement of assets, goods, works or services on negotiated fees and terms through that consultant or contractor alone may be deemed sound and advantageous to the project. This could include engaging the contractor or consultant on a retainer basis or a specified period of time.

Documentation

All procurement activities, including reasons for selected procurement methods and any exemptions from the *Procurement Policy* must be documented and registered. All contracts must be entered on to the Council's Contract Register and register on the Electronic Information Management System.



Delegations

Council acknowledges that the Chief Executive Officer may sub-delegate authority related to this Policy to staff or other persons employed or engaged by Council. Please refer to the Alexandrina Council's *Delegated Authority and Financial Delegations* lists.

Prudential Requirements

In some circumstances a procurement may require additional due diligence in accordance with the *Local Government Act 1999* prudential requirements. If this occurs the process will be subject to Alexandrina Council's *Prudential Management Policy*.

Policy Responsibility

The General Manager Resources is responsible for ensuring the proper operation of this policy.

Availability

This Policy will be available for inspection at the Council's offices during normal business hours and on the Council's website www.alexandrina.sa.gov.au . Copies will be provided to interested members of the community upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

Schedule 1 – Nominated Goods / Works / Services which are exempt from requiring a Quotation and using a Purchase Order for Payment

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.*

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

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

- statutory Government charges/levies
- vehicle registrations
- insurance charges
- media monitoring
- one off postal services
- utilities (eg SA Water, Telstra, AGL, Origin Energy)
- refunds or reimbursements of expenses
- license and membership fees and 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 ie DAP, Audit Committee
- emergency purchases, or situations threatening life or property. 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).

Services provided by a subsidiary under s.43 of the *Local Government Act 1999 (SA)*:

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