

PROCUREMENT POLICY

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| Policy Type: | Council Policy |
| Responsible Department: | Business Support & Improvement |
| Responsible Officer: | General Manager Business Support & Improvement |
| Related Policies and Procedures | Code of Conduct, Employees Prudential Management Policy Disposal of Surplus Non-Community Land Risk Management Policy Purchase Card Policy Motor Vehicle Policy Employees & Volunteers Procurement Framework |
| Date Adopted: | 28 May 2012 (C420/12) |
| Last Council Review: | 14 December 2020 (C0403/20) |
| Next Review Date: | 14 December 2023 |
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1. POLICY STATEMENT

This Policy has been developed pursuant to the requirements of Section 49 of the *Local Government Act 1999*, for the acquiring of goods and services. It provides clear direction to Council's administration for procurement within the City of Unley to ensure consistency and control over procurement activities and to encourage best practice.

A Procurement Framework is maintained to support the application of this policy.

2. COMMUNITY PLAN OBJECTIVES

- 3.1 Unley is recognised as an easy place to do business.
- 4.1 We have strong leadership and Governance.
- 4.3 Our business systems are effective and transparent

3. POLICY OBJECTIVES

This policy has been developed to provide clear accountability, consistency and transparency to all procurement activities of Council and to ensure delivery of the following key objectives:

- providing for equitable and ethical behaviour in all procurement activities and fair treatment of suppliers and third parties
- obtaining value for money through tendering and negotiating practices
- ensuring probity, accountability, transparency and, where appropriate, reporting
- effective management of the end to end procurement lifecycle
- identification and management of risks, and
- ensuring that purchasing transactions are conducted within delegated authority.

4. PRINCIPLES

The following key principles underpin all procurement activities at the City of Unley:

4.1 Open and Effective Competition

Procurement should, as far as is reasonably possible, be transparent and result in fair and effective competition in the provision of goods and services. Council will encourage healthy competition in the markets from which it purchases.

4.2 Value for Money

Council seeks to achieve value for money. The concept of best value is not restricted to price alone. The best value assessment will include consideration of one or more of the following criteria together with other relevant factors pertaining to the individual procurement activity:

- contribution to the advancement of the Council's strategic priorities
- ensuring that the goods and/or service(s) meet the needs of the community through fitness for purpose, quality, services and support
- whole-of-life costs, including costs of acquiring, using, maintaining and disposal
- internal administration costs
- technical compliance issues
- risk exposure, and
- the value of any associated environmental, social and economic benefits.

4.3 Ethical Behaviour and Fair Dealing

Council values the highest ethical and professional standards in its business dealings. Council will aim to achieve integrity in its procurement activities through transparent processes. Council employees involved in purchasing are

to behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives at all stages of the procurement process.

Council officers will observe the Code of Conduct for Employees reference at all times during the conduct of procurement activities and comply with all legal and common law obligations, including requirements of the *Independent Commissioner Against Corruption Act 2012*.

4.4 Social, Economic and Environmental Sustainability

Council procurement plays an important role in the economic development of South Australia. Promotion of employment, capital investment and support of supply chains in our immediate region and the broader state should be actively favoured when procurement decisions are made by Council.

Council acknowledges the South Australian Industry Participation Policy (IPP) and the *Industry Advocate Act 2017* and practices, as implemented by the State Government of South Australia.

Council recognises the geographical boundaries of the member Councils of the Eastern Regional Alliance (ERA) as its immediate region for the application of the IPP.

To the extent permitted by law, when all other considerations are equal, Council will favour the engagement of local suppliers and the use of South Australian made goods and suppliers whose activities contribute to the economic development of the region and/or provide local employment opportunities.

Council may also give preference to local contractors and suppliers by:

- actively promoting to local businesses' opportunities to supply to the Council
- structuring the purchasing processes to be accessible to all businesses
- ensuring, where possible, that specifications and purchasing descriptions are not structured so as to potentially exclude local suppliers and contractors.

Consideration may also be given, where practicable in the procurement process, to investigate the inclusion of not-for-profit organisations (social enterprises) that benefit the community (including the disadvantaged).

In addition, in order to minimise Council's impact on its environment, Council will undertake best endeavours to adopt purchasing practices which conserve natural resources in a way that achieves value for money on a whole of life basis by generating benefits for the organisation and the community.

4.5 Risk Management

Council will ensure that appropriate risk management practices are in place for procurement activities including risk identification, assessment, and mitigation and will adopt sound risk management principles in its procurement activities consistent with the Risk Management Policy and Framework.

Procurement risk assessments will influence the approach to market, with higher risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

Council will only engage suppliers who are able to maintain a level of Work Health and Safety acceptable to the City of Unley. As a minimum, this will be in compliance with the *Work Health and Safety Act 2012*, all associated regulations and all requirements relating to contractors in the Council's relevant Work Health and Safety policies, and as specified in terms and conditions of contractual arrangements.

5. PROCUREMENT

5.1 Methods of Procurement

The Procurement Framework outlines detailed information in relation to methods of procurement. The procurement decision matrix (within the Procurement Framework) outlines different transaction methods that can be applied.

To meet the requirements in relation to open and fair processes, the Council will select an approach to market method best suited to the procurement activities.

The determination of the method of procurement will be typically documented by the preparation of an Acquisition Plan, detailing the most appropriate method for the purchase and the delegated officers involved at each level of the approval process.

The strategy and planning for the procurement process must be commensurate with the estimated monetary value and the level of risk to Council arising from the engagement. Strategic sourcing of goods and services requires planning using a systematic and fact orientated approach to optimize Council's supply base and to improve overall value.

The following table outlines the minimum procurement requirements which includes:

- Written quote(s) for purchases over \$2,000;
- An Acquisition Plan and competitive sourcing involving three written quotes and for purchases over \$10,000;
- A formal evaluation process for purchases over \$50,000; and
- A formal tender process for purchases where the estimated gross value of expenditure over the life of the contract exceeds \$100,000.

Direct sourcing (i.e. a quote from a single supplier) may be used for purchases up to \$10,000.

| Value of Purchase (excluding GST) | Sourcing Method | Minimum Written Quotes | Evaluation Method | Acquisition Plan |
|--|------------------------|-------------------------------|--------------------------------------|--|
| \$0 to \$2,000 | Direct | Nil | 1 officer | Short Form when a contract is required |
| \$2,000 to \$10,000 | Direct | 1 | 1 officer | |
| \$10,000 to \$50,000 | Competitive | 3 | 2 officer evaluation | Short Form |
| \$50,000 to \$100,000 | Competitive | 3 | 3 officer (minimum) evaluation panel | Medium Form |
| Greater than \$100,000 | Competitive tender | 3 submissions | | Long Form |

Council reserves the right to undertake public or select tenders and requests for expressions of interest whenever considered appropriate.

For the purpose of this policy, the value of any purchase will be calculated as follows:

- single one-off purchase – the total amount, or estimated amount of the purchase (excluding GST)
- multiple purchases – the gross value of, or the estimated gross value of, all items to be purchased (excluding GST), or
- ongoing purchases over a period of time – the annual gross value of the purchases, or the estimated annual gross value (excluding GST).

Splitting the amounts to bring expenditure within lower limits is not permitted.

Persons with financial delegated authority to procure will be responsible for ensuring appropriate practices and procedures for risk and opportunity management are observed.

Council may, at its absolute discretion, by resolution, having regard to the Procurement Principles and any other factors considered, utilise a different method of procurement.

5.2 Tender Process

In circumstances that Council is required or elects to undertake a tender, an open or select tender process may be undertaken.

An Open Tender must be advertised publicly through the use of the State Government's contracts and tenders web site.

A Select Tender process may be used where there are a limited number of competitors with the required knowledge in the market place. The reason for undertaking a Select Tender is required to be detailed in the Acquisition Plan.

Tenders will be evaluated in a systematic manner against clearly predetermined evaluation criteria, with the process documented in a recommendation report.

Successful and unsuccessful respondents will be advised of the outcome of the evaluation process, and offered a debriefing provided upon request.

5.3 Acquisition Plan

An Acquisition Plan is required for all purchases over \$10,000 (ex GST) and for the extension of contracts and where a contract is required to be executed even if the procurement is under \$10,000 (ex GST).

The Acquisition Plan will:

- detail the estimated value and the planned approach for the procurement activity;
- identify the approval process required for each stage of the procurements; and
- consider risk factors involved in the procurement.

5.4 Purchase Orders

Purchase orders provide a record of the intention to expend funds, evidence of the process of approval, separation of duties and commitment of funds. A Purchase Order establishes Council's terms and conditions with the supplier.

Purchase orders are required for purchases over \$2,000 unless an exemption applies within the Procurement Framework. The initiating officer and the approving officer must be different Council officers, and a purchase order is not official until it is approved.

5.5 Strategic Purchasing Cooperatives

Purchases may be made through strategic alliances and common use arrangements that are established and administered by organisations listed within the Procurement Framework with the aim of:

- reducing direct and indirect purchasing costs, and/or
- providing value for money through joint purchasing, and/or
- improving delivery and/or quality of outcomes to residents, and/or
- attracting more competition or a more suitable field of providers to respond to the tender call.

Where the Council accesses contracts established through a strategic alliance, it is deemed that these contracts meet the requirements of a tender process and, therefore, do not require a further tender process and are not required to be recorded in the Register for Dispensation from Procurement Policy.

5.6 Dispensation from Procurement Policy

In circumstances where the Council enters into purchasing contracts, other than those resulting from a competitive process, the Council will record the reasons for entering into those contracts.

There may be rare situations, such as emergencies or occasions where Council's procurement processes will not necessarily deliver the best outcome for Council, in which case other market approaches may be more appropriate. In these circumstances, the reason/s for not undertaking a competitive quotation or tender must be identified and recorded in the Acquisition Plan.

Dispensation may be sought for the following situations:

- An emergency threatening life and/or property;
- The supply market is limited (due to lack of 3 suitable suppliers);
- Timing constraints - urgent purchase (not to be used for poor planning);
- Compatibility with existing equipment or involves repairs and maintenance of existing equipment from original supplier;
- The exact same product or service (with the same specification) was chosen through a competitive procurement process within the last 6 months; or
- Where funding arrangements or grants specify other requirements.

Approval for exemptions is required by the:

- relevant General Manager on the recommendation of the initiating officer if the value of the purchase is under \$250,000, or
- CEO if the value is over \$250,000.

All such purchases, whether approved by a General Manager or the CEO, must be recorded in a register (Register for Dispensation from Procurement Policy) and reported to the Executive Management Team on a quarterly basis.

5.7 Negotiations

When requests for quotations, tenders or proposals have been invited for a contract for the carrying out of work or the supply of goods or services, then Council may negotiate with one or more respondents.

Probity requirements must apply in respect to any negotiation undertaken.

The Council may close down a tender (shut down) if tender submissions received do not meet the requirements or no tender submissions are received and proceed to negotiate with any one or more of the tenderers or any other person.

5.8 Contracting Out of Services

The Council may explore contracting out opportunities in lieu of direct service provision if better value for money can be achieved to gain the most efficient and effective service delivery possible (subject to any restrictions or

requirements contained within any enterprise based bargaining agreement). This includes the consideration of shared services opportunities with other Councils.

5.9 Confidentiality

Subject to the requirements of the *Freedom of Information Act 1991* and the *Local Government Act 1999* Council will maintain confidentiality in regard to contractual arrangements with suppliers.

5.10 Sale and Disposal of Assets

For the sale and disposal of land and other assets, the following principles will apply:

- consistency with and relevance to Council's Corporate and Strategic Plans
- transparency and accountability in sale and disposal procedures and practices to ensure that the Council obtains the best price in the circumstances and that potential purchasers are given equal opportunity to purchase the land or assets
- compliance with statutory and other obligations (e.g. Council Policy for Disposal of Surplus Non-Community Land)
- commercial confidentiality within legislative constraints, and
- other relevant factors deemed appropriate by Council.

Consideration must also be given to the Prudential Management Policy (Policy reference S0001), where relevant.

Council may utilise one or more of the following methods to sell or dispose of land and other assets:

- trade in
- public auction
- select tender
- open tender
- by agency agreement, or
- a direct approach to potential purchasers (for example, adjoining landholders).

Motor vehicle disposal is addressed in Council's Motor Vehicle Policy.

5.11 Prudential Management

An active risk management approach will be adopted when undertaking significant projects that have a high initial or long-term impact on Council's budgets. A Prudential Report will be prepared for major projects that exceed the threshold for minimum prudential risk management, as defined within Section 48 of the *Local Government Act 1999*. Before Council commences a prudential project, the services of a suitably qualified staff member or independent person

will be engaged to prepare a prudential report that includes all relevant issues listed in section 48(2) of the *Local Government Act 1999*. Refer Council's Prudential Management Policy.

6. DEFINITIONS

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| <i>'Acquisition Plan'</i> | is a document that outlines the procurement methodology and strategy to be undertaken in procuring the required goods or services. This plan also details the approval delegation before the procurement strategy is commenced. |
| <i>'Direct sourcing'</i> | is the purchase of goods and/or services from a single source. |
| <i>'Dispensation from Procurement Policy';</i> | the deviation from policy to pursue a method of procurement that will provide the best outcome for the Council. |
| <i>'Probity'</i> | means uprightness, honesty, proper and ethical conduct and propriety in Council dealings. |
| <i>'Procurement'</i> | is the complete action or process of acquiring or obtaining goods, services or property from outside Council at the operational level. For example, purchasing, contracting, and negotiating directly with the source of the supply through to acceptance and payment. |
| <i>'Strategic sourcing'</i> | is a process that continuously improves and re-evaluates purchasing activities to gain value. |
| <i>'Strategic Alliance'</i> | procurement activities through contract arrangements already in established and administered by other organisations such as, Local Government Association Procurement, Procurement Australia etc. |
| <i>'Tender'</i> | a proposal, bid or offer that is submitted in response to a Request for Tender. |

7. LEGISLATION/REFERENCES

This is a mandatory policy as required under the *Local Government Act 1999* (Section 49).

The following is a list of various Acts and Regulations that apply to Council's diverse range of procurement activities. This policy is intended to supplement these instruments. Any inconsistency that may arise between this policy and a relevant Act or Regulation shall be resolved in favour of the act or regulations:

- Local Government Act 1999
- Competition and Consumer Act 2010 (Commonwealth)
- National Competition Policy
- Freedom of Information Act 1991
- Work Health and Safety Act 2012 (SA)
- Work Health and Safety Regulations 2012 (SA)
- Independent Commissioner Against Corruption Act 2012
- Environmental Protection Act 1993
- Security of Payment Act 2009
- Industry Advocate Act 2017
- Related Council Policies and Procedures
- Caretaker Policy
- Code of Conduct for Employees & Volunteers
- Disposal of Surplus Non-Community Land Policy
- Fraud and Corruption Prevention Policy
- Gifts and Benefits Procedure
- Motor Vehicle Policy
- Work, Health and Safety Contractor Management Policy

8. ROLES/RESPONSIBILITIES

- Manager Finance and Procurement
- Co-ordinator – Procurement and Contracts.

9. AVAILABILITY

The policy is available for public inspection during normal office hours from:

Civic Centre
181 Unley Road
Unley SA 5061

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website, www.unley.sa.gov.au

DOCUMENT HISTORY

| Date: | Council/Committee/Internal | Comment: |
|--------------|-----------------------------------|--------------------------|
| 20 Sept 2010 | CSP 360/10 | |
| 27 Sept 2010 | Council; C739/10 | Was policy no. COU 22 |
| 14 May 2012 | CSP 108/12 | |
| 28 May 2012 | Council; C420/12 | |
| 1 Sept 2015 | Audit & Governance; A&G18/15 | |
| 28 Sept 2015 | Council; C257/15 | Was policy no. COU14 |
| 08/12/20 | Audit Committee | Previous ECM No. 1309552 |
| 14/12/20 | Council | Review of Policy |