

POLICY DOCUMENT

7.63.15

Policy Name	PROCUREMENT
Policy No.	7.63.15
Version:	2
Strategic Reference:	3.2 A strategically driven, community aware and accountable Council
Responsible Department:	Corporate & Community Services
Policy Adopted:	19 October 2020
Last revised date:	15 July 2019
Minute reference:	CO 20/175
Next review date:	Council will review this policy annually; following significant change to legislation or aspects included within this policy.
Applicable Legislation:	Local Government Act 1999 Independent Commissioner Against Corruption Act 2012 Competition and Consumer Act 2012 Freedom of Information Act 1991 Work Health and Safety Act 2012 and Regulations 2012 Ombudsman Act, 1972 Industry Advocate Act 2017
Related Policies:	Caretaker Policy - 9.63.17 Civil Works Policy - 14.63.11 Code of Conduct for Council Employees – 12.63.12 Code of Conduct for Council Members - 9.63.3 Corporate Credit Card Policy – 7.63.16 Environmental Sustainability Policy – 5.63.11 Fraud and Corruption Prevention Policy – 9.63.21 Internal Control - 7.63.5 National Competition Policy - 7.63.7 Procurement Procedures (in development) Prudential (Project) Management Policy - 9.63.24 Records Management Policy – 13.63.3 Risk Management Policy - 18.63.5 Work Health Safety and Return to Work Policy 12.16.44

1. INTRODUCTION

- 1.1 The procurement strategy for the City of Port Lincoln is a decentralised model in which authorised staff implement a centrally managed suite of policies, procedures and templates, subject to continuous improvement review.
- 1.2 The procurement function is founded on the maintenance and consistent implementation of new delegations, policies and procedures and the demonstrated commitment from employees to maintaining the integrity of these. Reference to “Council” in this Policy includes any employee of Council with lawful delegated powers and duties relating to procurement.
- 1.3 In compliance with Section 49 of the Local Government Act 1999 (Act), Council should refer to this policy (Policy) when acquiring goods and services.
- 1.4 Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
 - 1.4.1 the contracting out of services; and
 - 1.4.2 competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
 - 1.4.3 the use of local goods and services.
- 1.5 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
 - 1.5.1 obtaining value in the expenditure of public money; and
 - 1.5.2 providing for ethical and fair treatment of participants; and
 - 1.5.3 ensuring probity, accountability and transparency in all operations.
- 1.6 This Policy seeks to:
 - 1.6.1 define the methods by which Council can acquire goods and services;
 - 1.6.2 demonstrate accountability and responsibility of Council to ratepayers;
 - 1.6.3 be fair and equitable to all parties involved;
 - 1.6.4 enable all processes to be monitored and recorded; and
 - 1.6.5 ensure that the best possible outcome is achieved for the Council.
- 1.7 This Policy does not cover:
 - 1.7.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
 - 1.7.2 the disposal of land and other assets owned by the Council; or
 - 1.7.3 the purchase of land by the Council.

2. **POLICY OBJECTIVE**

Council aims to achieve advantageous procurement outcomes for the City of Port Lincoln by:

- 2.1 enhancing value for money through fair, competitive, non-discriminatory procurement;
- 2.2 promoting the use of resources in an efficient, effective and ethical manner;
- 2.3 making decisions with probity, accountability and transparency;
- 2.4 advancing and/or working within Council's economic, social and environmental policies;
- 2.5 providing reasonable opportunity for competitive local businesses to supply to Council;
- 2.6 appropriately managing risk; and
- 2.7 ensuring compliance with all relevant legislation.

3. **PROCUREMENT PRINCIPLES**

Council must have regard to the following principles in its acquisition of goods and services:

3.1 ***Encouragement of open and effective competition***

- 3.1.1 All purchasing activities should be open and encourage effective competition.
- 3.1.2 Openness will not only ensure visibility to the Council, ratepayer and suppliers but will also encourage a more competitive environment.
- 3.1.3 Openness and competition will maximize opportunities for business to conduct business with Council and promote value for money to the Council.

3.2 ***Obtaining Value for Money***

- 3.2.1 This is not restricted to price alone.
- 3.2.2 An assessment of value for money must include, where possible, consideration of:
 - 3.2.2.1 the contribution to Council's long term plan and strategic direction;
 - 3.2.2.2 any relevant direct and indirect benefits to Council, both tangible and intangible;
 - 3.2.2.3 efficiency and effectiveness of the proposed procurement activity;
 - 3.2.2.4 the performance history, and quality, scope of services and support of each prospective supplier;
 - 3.2.2.5 fitness for purpose of the proposed goods or service;
 - 3.2.2.6 whole of life costs;
 - 3.2.2.7 Council's internal administration costs;
 - 3.2.2.8 technical compliance issues;

3.2.2.9 risk exposure; and

3.2.2.10 the value of any associated environmental benefits.

3.3 *Probity, Ethical Behaviour and Fair Dealing*

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

3.4 *Accountability, Transparency and Reporting*

3.5 *Ensuring compliance with all relevant legislation*

3.6 *Encouragement of the development of competitive local business and industry*

Procurement plays an important role in the economic development of the region(s) whether Council, Eyre Peninsula and South Australia.

Where applicable the Industry Participation Policy shall be applied to high value procurement, including Employment Contribution Test, to determine the level of local investment in the Council region by potential suppliers and contractors.

To the extent permitted by law, Council aims to encourage the participation of local suppliers, contractors and manufacturers and provide where practical, opportunity for local economic benefit including use of Australian and locally manufactured goods.

Where the evaluation criteria are comparable, Council may consider the following:

3.6.1 the creation of local employment opportunities;

3.6.2 increased availability of local servicing support;

3.6.3 increased convenience with communications with the supplier for contract management;

3.6.4 economic growth within the local area;

3.6.5 benefit to Council of associated local commercial transaction; and/or

3.6.6 the short and long term impact of the procurement on local business.

3.7 *Enacting the Principles of Council's Reconciliation Action Plan*

Further to item 3.6, Council will seek to make the following additional considerations:

3.7.1 the degree to which a business / supplier is considered to be owned by Aboriginal or Torres Strait Islanders;

3.7.2 the degree to which a business / supplier has developed and implemented a Reconciliation Action Plan, specific Aboriginal and Torres Strait Island Recruitment Policies and / or Cultural Awareness practices.

3.8 ***Environmental protection***

Council will seek to:

- 3.8.1 adopt purchasing practices which conserve natural resources;
- 3.8.2 align the Council's procurement activities with principles of ecological sustainability;
- 3.8.3 purchase recycled and environmentally preferred products where possible;
- 3.8.4 integrate relevant principles of waste minimisation and energy;
- 3.8.5 foster the development of products and services which have a low environmental impact;
- 3.8.6 provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

3.9 ***Risk Management***

- 3.9.1 Risk is a significant part of the environment within which the Council operates and therefore must be considered throughout the purchasing process no matter the value of the supply.
- 3.9.2 Risk management involves the systematic identification, analysis, evaluation, treatment, monitoring and, if appropriate, acceptance of risks.

3.10 ***Work, Health & Safety***

- 3.10.1 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 (SA) and its Regulations.
- 3.10.2 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).
- 3.10.3 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.
- 3.10.4 If the purchase of goods, materials or plant and equipment involves implications for the work, health or safety, Council's Work Health & Safety & Risk Management team should also be consulted prior to such purchase.
- 3.10.5 Where appropriate, procurement evaluation must ensure an appropriately skilled person confirms all WHS assessments.

4. **PROCUREMENT METHODS**

Generally, open and fair competition is best achieved by undertaking a tender process so that all interested parties have an opportunity to bid. However, there may be procurements in which a

tender process will not necessarily deliver the most advantageous outcome for the Council – in such instances, other market approaches may be more appropriate.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods. Standing orders may be a suitable strategy under this method, however cumulative spend should be monitored and used to trigger an alternative method when thresholds are reached.

Generally, standing orders have limited terms and conditions and should not be used for non-routine, high value and high risk goods and services:

4.1 ***Direct Purchasing***

4.1.1 This is where Council purchases from a single source, without first obtaining competing bids.

4.1.2 This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.

4.2 ***Quotations***

4.2.1 This is where Council obtains quotations from prospective suppliers.

4.2.2 Generally, a minimum of two quotations are sought.

4.2.3 Where possible, the Council must insist on written quotes.

4.2.3.1 If a written quote cannot be obtained, the Council **must** keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.

4.2.4 This method may be suitable for low value, low risk goods and services.

4.3 ***Request for Quotations (RFQ)***

4.3.1 This is where Council obtains written quotations from prospective suppliers utilising its RFQ templates as per 4.3.4 and 4.3.5.

4.3.2 Generally, a minimum of three written quotations are sought.

4.3.3 This method may be suitable for simple, largely price-based purchases.

4.3.4 A “Short Form Request for Quotation” can be used for purchases with minimal specifications.

4.3.5 A “Long Form Request for Quotation” can be used for purchases with detailed specifications.

4.4 ***Requests for Expressions of Interest (REOI)***

4.4.1 This is where Council issues an open invitation for a proposed goods and/or service.

4.4.2 This method may be used where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to then invite to participate in a tender process.

4.5 ***Request for Tenders (RFT)***

4.5.1 This is where the Council issues a tender for a proposed goods and/or service.

4.5.2 Council may issue a “Select” Request for Tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers.

4.5.3 Otherwise, Council may issue an “Open” Request for Tender.

4.6 ***Panel contracts***

4.6.1 This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

4.6.1.1 a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or

4.6.1.2 the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

4.6.2 Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.

4.7 ***Strategic alliances***

4.7.1 This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

4.7.1.1 LGA Procurement;

4.7.1.2 a purchasing group of which the Council is a member;

4.7.1.3 State Government contracts.

5. **CONSIDERATIONS FOR COUNCIL**

The appropriate method of procurement will be determined by reference to a number of factors as identified below.

Note - Value of Purchase identified as per Clause 5.1 is provided as an initial guide however selection of the appropriate Market Approach and Contract Form shall be based on value and assessment of risk as follows:

5.1 Value of the Purchase

Value of Purchase (\$)	Acceptable Market Approaches	Contract Form
<\$5,000	<ul style="list-style-type: none"> • Written quote(s) • Direct sourcing / negotiation • Purchase from PLCC panel or prequalified contractor register. • Purchase from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate. • Verbal quote(s) maybe be used in certain circumstances but must be supported by a level of written documentation. 	<ul style="list-style-type: none"> • Purchase Order or Credit Card • VendorPanel/LGAP Panel
\$5,001 - \$20,000	<ul style="list-style-type: none"> • Written (informal) quotes from at least two (2) suppliers. • Purchase from PLCC panel or prequalified contractor register. • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate. 	<ul style="list-style-type: none"> • Purchase Order. • VendorPanel/LGAP Panel. • Minor Works Contract (if medium level of risk). • Professional Services Contract.
\$20,001 - \$150,000*	<ul style="list-style-type: none"> • Written (formal) quotes from at least three (3) suppliers (RFQ) • Purchase from PLCC panel or prequalified contractor register. • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate 	<ul style="list-style-type: none"> • Purchase Order. • Minor Works Contract. • VendorPanel/LGAP Panel. • Professional Services Contract.
>\$150,001**	<ul style="list-style-type: none"> • Tender Process -Open / Select / Limited (RFT/RFQ/REOI) • Purchase from PLCC panel or prequalified contractor register. • Purchasing from approved external contracts or standing offers, including LGA Procurement or other arrangements appropriate 	<ul style="list-style-type: none"> • LGA/PLCC General Condition of Contract – Works, Services, Professional Services or appropriate conditions of contract e.g. AS4000.

*Simple Acquisition Plan required (>\$20,000) endorsed by Business Manager or Chief Executive Officer.

**Complex Acquisition Plan required (>\$150,000) endorsed by Chief Executive Officer.

Note - Where a procurement relates to a project as defined in Council's Prudential (Project) Management Policy the appropriate Due Diligence Report shall be undertaken before commencement of the project.

The value of the purchase will be calculated as follows:

- single one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
 - multiple purchases with same supplier– the gross value, or the estimated gross value, of the purchases (excluding GST); or
 - ongoing purchases over a period of time – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
 - Refer to section 5.10 Cumulative Spend.
- 5.2 cost of an open market approach versus the value of the acquisition and the potential benefits;
- 5.3 the particular circumstances of the procurement activity;
- 5.4 the objectives of the procurement;
- 5.5 the size of the market and the number of competent suppliers;
- 5.6 the Council's leverage in the marketplace;
- 5.7 time constraints;
- 5.8 use of consultants or seeking technical advice for >\$5,000
- 5.9 an assessment of the risks i.e., via a formal Risk Assessment, associated with the relevant activity and /or project, including the risk profile of the procurement, any risks associated with the preferred procurement method, with particular reference to WHS risks.
- 5.10 ***Cumulative Spend***

To support determining Value as per Clause 5.1, Value of the Purchase is identified as the estimated value of the total proposed purchases, including any contract options, extensions and renewals (inclusive of GST), and potential cumulative value of the goods, services or works supplied over a period of time, i.e., 12 months, against a supplier/contractor providing similar works/services.

The cumulative expenditure against all suppliers, contractors and consultants shall be monitored annually by Council to determine whether the appropriate procurement process has been undertaken and/or an alternative procurement method is required to comply with this policy.

Council's Procurement Procedures will outline and support the process of determining the level of risk pertaining to the procurement, the market process and form of contract.

6. **RECORDS**

Retention of records pertaining to procurement is crucial. Appropriate records must be maintained to provide evidence of decisions made, process undertaken and approvals received, commensurate with the level of complexity of the procurement undertaken.

Records must be maintained utilising Council's electronic records management system to retain records in accordance with the State Records Act and Council's Records Management Policy.

7. **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 best outcome for the Council, and other market approaches may be more appropriate.

In certain circumstances, the Council may, after provision of an acquisition plan being approved by the CEO or relevant financial delegate based on value e.g. Business Manager, waive application of this Policy and pursue a method which will bring the best outcome for the Council. The CEO or appropriate financial delegate must record their reasons in writing for waiving application of this Policy.

Some examples of when it may be appropriate for the Council to waive application of this Policy are:

- (a) emergency situations threatening life and property (invoking the Emergency Response Plan or Business Continuity Plan); or
- (b) the supply market is known; or
- (c) timing constraints; or
- (d) through a strategic alliance where an open tender process has already been conducted; or
- (e) where a strategic approach has already been approved and reputational risk increases through seeking responses that do not align with the strategy.

Where a waiver has been granted this does not remove the need for staff to assess risk whether WHS, financial etc., and ensure appropriate controls in place including contract conditions, WHS documentation etc. A Request for Exemption Form is to be completed and authorised by the Chief Executive Officer.

8. **DELEGATIONS**

- 8.1 The CEO will determine appropriate procurement thresholds for inclusion in delegation instruments, which will be reviewed on an annual basis or as required.
- 8.2 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 Business Manager, CEO or Council subject to the value and nature of the expenditure.
- 8.3 Delegations pertaining to expenditure and purchasing are recorded in the City of Port Lincoln Delegations Register.

9. FURTHER INFORMATION

- 9.1 This Policy will be kept on the Council's website for the public to view.
- 9.2 This Policy will be reviewed on an annual basis or when legislative change requires it.
- 9.3 However, Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).
- 9.4 This policy is to be supported by a Procurement Procedure and associated template documentation.