

<b>Policy Number:</b>	<b>2.4</b>
<b>Policy Name:</b>	<b>Procurement</b>
<b>Classification:</b>	<b>Public – Mandatory Policy</b>
<b>Adopted:</b>	<b>July 2014</b>
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<b>Responsible Officer(s):</b>	<b>Manager Finance and Corporate Services Team Leader, Property &amp; Procurement</b>
<b>Policy and Code of Practice Manual File Ref:</b>	<b>CC10/2601</b>
<b>Council File Reference:</b>	<b>CR14/15403</b>
<b>Legislation Authority:</b>	<b>Local Government Act 1999</b>
<b>Related Policies and Codes:</b>	<b>Policy 2.8 – Prudential Management Policy 2.9 – Disposal of Land and Assets</b>
<b>Related Procedures:</b>	

## 1. INTRODUCTION

- 1.1** In compliance with Section 49 of the Local Government Act 1999 (Act), Council should refer to this policy (Policy) when acquiring goods and services.
- 1.2** Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
- 1.2.1 the contracting out of services; and
  - 1.2.2 competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
  - 1.2.3 the use of local goods and services.
- 1.3** Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
- 1.3.1 obtaining value in the expenditure of public money; and
  - 1.3.2 providing for ethical and fair treatment of participants; and
  - 1.3.3 ensuring probity, accountability and transparency in all operations.
- 1.4** This Policy seeks to:
- 1.4.1 define the methods by which Council can acquire goods and services;
  - 1.4.2 demonstrate accountability and responsibility of Council to ratepayers;

- 1.4.3 be fair and equitable to all parties involved;
- 1.4.4 enable all processes to be monitored and recorded; and
- 1.4.5 ensure that the best possible outcome is achieved for the Council.

**1.5** However, this Policy does not cover:

- 1.5.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
- 1.5.2 the disposal of land and other assets owned by the Council; or
- 1.5.3 the purchase of land by the Council.

## **2. POLICY OBJECTIVES**

Council aims to achieve advantageous procurement outcomes 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. RESPONSIBILITIES**

Council employees must comply with this policy and associated policies, procedures and reference documents. Procurement methods, ie request for quotation/tendering shall be carried out according to the procurement methods detailed in this policy.

It is the responsibility of Council employees involved in the procurement process to understand the meaning and intent of this policy.

All Council employees with access to procurement related systems (including systems through which tender documents are electronically submitted to the Council) must observe applicable confidentiality obligations.

Tender documentation must only be viewed by employees responsible for relevant procurement processes prior to the close of submission for tender documentation. Should any employee become aware of information relating to a tender submission which they know or ought reasonably to know is confidential (including identity of person submitting or content of documentation), that employee must disclose their knowledge to the Team Leader Property and Procurement or the Chief Executive Officer.

#### 4. PROCUREMENT PRINCIPLES

Council will follow the guidelines contained within the Local Government Association Procurement (“LGAP”) Handbook and will have regard to the following principles in its acquisition of goods and services:

##### 4.1 *Encouragement of open and effective competition*

##### 4.2 *Obtaining Value for Money*

4.2.1 This is not restricted to price alone.

4.2.2 An assessment of value for money must include, where possible, consideration of:

4.2.2.1 the contribution to Council's long term plan and strategic direction;

4.2.2.2 any relevant direct and indirect benefits to Council, both tangible and intangible;

4.2.2.3 efficiency and effectiveness of the proposed procurement activity;

4.2.2.4 the performance history, and quality, scope of services and support of each prospective supplier;

4.2.2.5 fitness for purpose of the proposed goods or service;

4.2.2.6 whole of life costs;

4.2.2.7 Council's internal administration costs;

4.2.2.8 technical compliance issues;

4.2.2.9 risk exposure; and

4.2.2.10 the value of any associated environmental benefits.

##### 4.3 *Probity, Ethical Behaviour and Fair Dealing*

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

##### 4.4 *Accountability, Transparency and Reporting*

##### 4.5 *Ensuring compliance with all relevant legislation*

##### 4.6 *Encouragement of the development of competitive local business and industry*

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

4.6.1 the creation of local employment opportunities;

4.6.2 increased availability of local servicing support;

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

4.6.4 economic growth within the local area;

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

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

##### 4.7 *Environmental protection*

Council will seek to:

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

#### **4.8 Work, Health & Safety**

- 4.8.1 Council will only consider contractors who have appropriate systems to manage Work Health and Safety or who can demonstrate a capability to establish adequate systems relevant to a contract prior to the commencement of a contract.
- 4.8.2 A condition of each works contract will be a requirement of a contractor, before the commencement of the works, to prepare and submit proposed specific Work Health and Safety management based on a hazard identification and risk assessment.

### **5. PROCUREMENT METHODS**

- 5.1 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.
- 5.2 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:
  - 5.2.1 Direct Purchasing
    - 5.2.1.1 This is where Council purchases from a single source, without first obtaining competing bids.
    - 5.2.1.2 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.
  - 5.2.2. Quotations (Informal)
    - 5.2.2.1 This is where Council obtains quotations from prospective suppliers.
    - 5.2.2.2 Generally, a minimum of three written quotations are sought.
    - 5.2.2.3 This method may be suitable for low value, low risk goods and services.
  - 5.2.3 Purchase Orders
    - 5.2.3.1 This is where Council is purchasing routine, low value and low risk goods and services.

- 5.2.3.2 Generally, Purchase Orders have limited terms and conditions and should not be used for non-routine, high value and high risk goods and services.
- 5.2.4 Request for Quotations (RFQ)
  - 5.2.4.1 This is where Council obtains written quotations from prospective suppliers.
  - 5.2.4.2 Generally, a minimum of three written quotations are sought.
  - 5.2.4.3 This method may be suitable for simple, largely price-based purchases.
- 5.2.5 Requests for Expressions of Interest (REOI)
  - 5.2.5.1 This is where Council issues an open invitation for a proposed goods and/or service.
  - 5.2.5.2 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.
- 5.2.6 Request for Tenders (RFT)
  - 5.2.6.1 This is where the Council issues a tender for a proposed goods and/or service.
  - 5.2.6.2 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.
  - 5.2.6.3 Otherwise, Council may issue an “Open” Request for Tender.
- 5.2.7 Panel contracts
  - 5.2.7.1 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:
    - 5.2.7.1.1 a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
    - 5.2.7.1.2 the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.
  - 5.2.7.2 Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.
- 5.2.8 Strategic alliances
  - 5.2.8.1 This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:
    - 5.2.8.1.1 LGA Procurement;
    - 5.2.8.1.2 a purchasing group of which the Council is a member
    - 5.2.8.1.3 Council Solutions;
    - 5.2.8.1.4 Other Councils
    - 5.2.8.1.5 Procurement Australia;
    - 5.2.8.1.6 State Government contracts.

5.2.9 Local Industry Sourcing

5.2.9.1 With the aim of achieving a value for money outcome, Council will endeavour to, at its discretion and to the full extent permitted by law, support local businesses by:-

- 5.2.9.1.1 actively promoting local businesses opportunities to supply to the Council;
- 5.2.9.1.2 structuring the purchasing processes to be accessible to all businesses;
- 5.2.9.1.3 giving preference to local business when all other commercial considerations are equal;
- 5.2.9.1.4 ensuring, where possible, that specifications and purchasing descriptions are not structured so as to potentially exclude local suppliers and contractors.

**6. CONSIDERATIONS FOR THE COUNCIL**

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

**6.1 Value of the Purchase**

<b>Value of Purchase (\$)</b>	<b>Possible Method of Procurement</b>
Up to \$10,000	<u>Any supplier direct purchasing</u>
\$10,001 to \$50,000	<u>Request for Quotation (RFQ) with at least three (3) written quotations sought (refer 4.2.4)</u>
\$50,001 to \$100,000	Request for Tender (Select) with at least three (3) written quotations sought (refer 4.2.6)  Alternatively, prior to undertaking a formal tender process Council may invite Expressions of Interest (refer 4.2.5)
Over \$100,001	Request for Tender (Open) sought (refer 4.2.6)  Alternatively, prior to undertaking a formal tender process Council may invite Expressions of Interest (refer 4.2.5)

The value of the purchase will be calculated as follows:

1. *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);
  2. *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
  3. *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- 6.2 cost of an open market approach versus the value of the acquisition and the potential benefits;
- 6.3 the particular circumstances of the procurement activity;
- 6.4 the objectives of the procurement;
- 6.5 the size of the market and the number of competent suppliers;
- 6.6 the Council's leverage in the marketplace;
- 6.7 time constraints;
- 6.8 a global 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;

## 7. RECORDS

- 7.1 The Council must record written reasons for utilising a specific procurement method in each activity and where it uses a procurement method other than tendering.

## 8. EXEMPTIONS FROM THIS POLICY

- 8.1 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.
- 8.2 In certain circumstances, the Council may, after approval from the Chief Executive Officer, waive application of this Policy and pursue a method which will bring the best outcome for the Council. Council may choose exemption from the requirement to seek tenders or quotations, if:
- 8.2.1 There may be significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property; or
- 8.2.2 The pressures of time are such that an open call is not feasible, such as where there has been an unanticipated Council or Government policy decision; or
- 8.2.3 Council purchases assets or goods at an auction up to \$100,000; or

- 8.2.4 Council purchases second-hand assets or goods up to \$100,000; or
- 8.2.5 The contract is made with, or under an arrangement with or made through a strategic alliance pursuant to 5.2 of this Policy; or
- 8.2.6 A situation presents itself wherein a contractor or consultant has considerable background knowledge and experience or specialist expertise on that particular Council project or asset eg 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 for a specified period of time.

The Council must record its reasons in writing for waiving application of this Policy.

## 9. DELEGATIONS

The Council has delegated to the Chief Executive Officer the power in Section 137 of the Act to expend the funds of the Council.

The Chief Executive Officer has subdelegated to Managers and Team Leaders the power in Section 137 of the Act to expend the funds of the Council.

All such delegations and subdelegations are subject to limitations set out in the instruments of delegation and subdelegation.

### Monetary Limitations

The following monetary limitations (being the maximum amount the delegate or subdelegate is permitted to expend in any one transaction or over a series of transactions in respect of the same good(s) or service(s) or other purchase or expenditure) are placed upon delegations and subdelegations of the power in Section 137 of the Act to expend the funds of the Council:

- Chief Executive Officer: 500,000
- Managers, executive level: \$250,000
- Team Leader, Property and Procurement: \$100,000
- Other Team Leaders and non-executive Managers: \$20,000

An instrument of delegation or subdelegation prevails where inconsistent with the above.

### Other Limitations

It is a further condition upon delegations and subdelegations that the power in Section 137 of the Act to expend the funds of the Council must be exercised in accordance with Council policy.

In addition to the requirements set out elsewhere in this Policy and any other policies or resolutions or documentation of the Council, the following conditions upon the exercise of the powers and functions by delegates and subdelegates are prescribed:

- **Monetary limitation applies to procurement processes:** An officer may only commence a procurement process in respect of good(s) or service(s) or other purchase or expenditure the total value of which is not more than the monetary limitation set out in their instrument of delegation or subdelegation of the power in Section 137 of the Act to expend the funds of the Council.
- **Monetary limitation applies to contract documentation:** An officer may only sign contract documentation in respect of good(s) or service(s) or other purchase or expenditure the total value of which is not more than the monetary limitation set out in their instrument of delegation or subdelegation of the power in Section 137 of the Act to expend the funds of the Council.
- **Prohibition on approval of procurement process and signing contract documentation:** An officer may not sign off on or otherwise approve a procurement process as well as sign contract documentation in relation to the same good(s) or service(s) or other purchase or expenditure (including proposed purchase or expenditure).
- **Prohibition on non-executive signing of contract documentation:** Team Leaders and non-executive Managers may not sign contract documentation.

## 10. PRUDENTIAL REQUIREMENTS

Refer to Council's Prudential Policy 2.8.

## 11. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed a biennial basis.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

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

The Policy will be reviewed after each general election of Council.

## 12. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone:	8522 9211
Fax:	8522 9212
Email:	<a href="mailto:council@gawler.sa.gov.au">council@gawler.sa.gov.au</a>
Appointment:	Town Hall, 89 – 91 Murray Street, Gawler
Letter:	PO Box 130, Gawler SA 5118

### 13. AVAILABILITY OF POLICY

The Policy is available for inspection during ordinary business hours at the Council principal office, Gawler Town Hall or Library Council Offices, 89 – 91 Murray Street, Gawler or is available on the Council website at [www.gawler.sa.gov.au](http://www.gawler.sa.gov.au).

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.