

Attachment Folder

Item 8.3

Ordinary Meeting

Thursday, 20 June 2024

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Strategic Policy

2024-25 Procurement Policy

DRAFT

Endorsed by Council:

<Corporate Governance
INSERT Ordinary Meeting Date
and OM reference once
endorsed>

Policy purpose

This Procurement Policy will outline the principles as well as the procurement and disposal framework that Council will adopt and apply when conducting Contracting Activities, which include contracts for goods and services (including works) and the disposal of assets.

Policy scope

This policy applies to all Council employees (including contingent workers and volunteers) and relates to anyone who undertakes any part of a Contracting Activity on behalf of Council.

Policy statement

Council adopts the *LGR 2012*, Chapter 6 Contracting, Part 2 Strategic Contracting Procedures for entering into contracts for the:

- a) supply of goods and services (including carrying out work); and
- b) disposal of non-current assets (other than land).

Council will comply with these procedures when conducting Contracting Activities, other than those applying to disposal of land or an interest in land.

Council will deal with the disposal of land under the *LGR 2012*, Chapter 6 Contracting, Part 3 Default Contracting Procedures.

Council will ensure it is financially sustainable by establishing a financial management system that ensures regard is had for the Sound Contracting Principles when contracting for the supply of goods or services (including carrying out of works) and the disposal of assets.

Council will continue to apply the Sound Contracting Principles throughout the financial year along with other adopted principles in relation to Contracting Activities.

Sound Contracting Principles

The Sound Contracting Principles are:

- a) value for money; and
- b) open and effective competition; and
- c) the development of competitive local business and industry; and
- d) environmental protection; and

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e) ethical behaviour and fair dealing.
 Regard will be had for each principle, although each principle may not receive equal consideration.

Requirements of Strategic Contracting Procedures

The Strategic Contracting Procedures, comprise of:

- (a) Contract Manual;
- (b) Contracting Plan and associated guidelines, which include:
 - Local Preference in Procurement Guideline;
 - Social Benefit Procurement Guideline;
 - First Nations Procurement Guideline; and
 - Innovation and Market-Led Engagement Guideline; and
 - Environment and Sustainability in Procurement Guideline.
- (c) Significant Contracting Plan/s.

Policy application

This policy details how Council will conduct Procurement Activities. Procurement Activities will occur in the following manner:

Table 1: Procurement Contract thresholds

Contract Threshold	Procurement Routes
\$5,000,000 and greater OR High Risk/Complex Contracts	<ul style="list-style-type: none"> • A Significant Contracting Plan is required for any Contract that is: <ul style="list-style-type: none"> ○ expected to reach the Contract Threshold; or ○ of a high risk; or ○ of a complex nature. <p>A Significant Contracting Plan must be made before the Contract starts. Each Significant Contracting Plan will identify the chosen procurement strategy. All Significant Contracting Plans must be approved in accordance with Council's Contracting Plan and may only be modified by resolution of Council.</p>
\$500,000 up to \$5,000,000	<ul style="list-style-type: none"> • Expression of Interest (EOI) • Invite Tenders • Available Exception
\$50,000 up to \$500,000	<ul style="list-style-type: none"> • EOI • Invite Tenders • Request for Quote issued to at least three (3) suitably capable suppliers • Available Exception

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Contract Threshold	Procurement Routes
Up to \$50,000	<ul style="list-style-type: none"> Request for Quote issued to at least one (1) suitably capable supplier

Exceptions relating to Procurement Processes

Council has created alternative procurement routes to the primary procurement routes (of EO, Tender and Request for Quote) by establishing the following Exceptions:

Exception	Process for establishing and/or exercising an Exception
Supplier Arrangements	<p>Council can create Supplier Arrangements to undertake procurement processes to form contracts for goods, services (including the carrying out of works) that are required frequently, in high volume or where it is important to understand the capability of the Suppliers.</p> <p>Council will maintain an open and transparent process for creating, managing, refreshing, and finalising Supplier Arrangements. Public Tender will be used to create a Supplier Arrangement, however a Request For Quote may be used to manage or refresh an existing Supplier Arrangement.</p> <p>The Supplier Arrangement may be priced or non-priced.</p> <p>Utilising Supplier Arrangement with price provided</p> <p>Council will invite the highest ranked Supplier on the Supplier Arrangement to provide the goods, services and/or works. Where the highest ranked does not or cannot provide the goods, services and/or works, the next highest ranked Supplier may be engaged, and so on, until a Supplier is engaged.</p> <p>Utilising Supplier Arrangement without price provided</p> <p>Council will undertake a Request for Quote from any Supplier Arrangement where price is not provided, having regard to the thresholds outlined in Table 2: Procurement Contract value and related procurement routes to market above.</p> <p>Note: In exceptional circumstances, a contract valued over \$50,000 may be formed following a Request for Quote process with just one Supplier on a Supplier Arrangement. Please contact the Coordinator Procurement and Contract Performance prior to entering into a contract if this exception is required.</p>
Governmental Contracts and Arrangements	<p>The Contract is made with, or under an arrangement with, another Government, including Local, State or Commonwealth, and includes any Government Entity or Agency and Utility Providers.</p> <p>This exception is intended to include Local Government Association Arrangements and Utility Providers including water, electricity, gas and telecommunications.</p> <p>Note: In exceptional circumstances, a contract valued over \$50,000 may be formed following a Request for Quote process with just one Supplier on an</p>

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	Arrangement. Please contact the Coordinator Procurement and Contract Performance prior to entering into a contract if this exception is required.
Memberships / subscriptions / conferences (e.g. professional associations, industry bodies, institutes)	Applies where alternatives do not practically exist (for example professional associations, industry bodies, and institutes).
Statement of licence, legislated requirements, third party ownership of assets or industry regulated standards	Applies if the goods, services, or works can only be supplied by a single supplier or a restricted group due to third-party ownership of a public utility plant asset. For example, Energex, Telstra, or APA. Where possible, competitive quotes are to be obtained and value for money demonstrated.
Where existing system, equipment or proprietary brand has requisite goods and services to ensure compatibility or warranty.	Applies if the goods or services being sought are restricted as they can only be supplied by a single supplier, or requires Council to procure a specific brand that restricts the supplier market (for example replacement parts for equipment under warranty or maintenance agreements). Where possible, competitive quotes are to be obtained and value for money demonstrated.
Information and communication Technology: Solutions tendered – re-sellers and software developers	Allows Council to contract with a copyright holder where the solution is tendered by an authorised reseller.
Extension of Information Communications Technology (ICT) licencing, support and maintenance contracts	Council's arrangements and contracts for the provision of ICT software and hardware (ICT products) can often continue to meet business requirements beyond the originally envisioned term. This exception provides a mechanism to approve purchasing of incremental licences as well as maintenance and support (which may include external hosting or subscription to existing solutions) for existing Council ICT products beyond the original term. Where possible, competitive quotes are to be obtained and value for money demonstrated.
Genuine Emergency	A genuine emergency exists. If the money spent in response to the genuine emergency is not provided for in the annual budget, Council must make a resolution about spending the money either before, or as soon as practicable after, the money is spent.

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<p>Innovation and Market-Led Engagement Guideline</p>	<p>Council has adopted an Innovation and Market-Led Engagement Guideline to identify the circumstances and processes for engaging with Suppliers who provide goods, services and/or works that fall within the contemplation of the Guideline.</p>
<p>General Exceptions</p>	<p>A General Exception may be used to form a contract when a standard Procurement Process or other Exception is not available or appropriate under the circumstances. This may include activities previously identified as Exceptions, including:</p> <p>Sole or Specialised Supplier/s</p> <p>Council determines that:</p> <ul style="list-style-type: none"> o there is only one supplier who is reasonably available; or o because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for Council to invite quotes or tenders. <p>Auction Purchase</p> <p>The Contract is for the purchase of goods and is made by auction.</p> <p>Second-hand Goods</p> <p>The Contract is for the purchase of second-hand goods.</p> <p>Tender/Quote Consideration Plan/s</p> <p>If a Tender/Quote Consideration Plan has been approved or adopted, then Council may form a Contract from that Plan as contemplated by that Plan.</p> <p>A Procurement Plan must be developed prior to contract award for Procurement Activities involving a General Exception. A Procurement Plan for a General Exception must also explain the reasoning for using this Exception, including why a standard Procurement Process/es or other Exception/s were not available.</p> <p>A General Exception may be approved by the Manager, Business & Innovation and the Group Executive from the Group where the contract will be managed and administered, or with the sole approval of the CEO.</p>

NOTE: Use of any of the aforementioned exceptions is limited to those with the delegated authority to conduct Contracting Activities, and within authorised expenditure limits.

[Application to Disposal Processes](#)

Council will conduct Disposal Contracting Activities having regard to the adopted Thresholds for Valuable Non-Current Assets.

[Thresholds for Valuable Non-Current Assets \(VNCA\)](#)

The *LGR 2012* provides that a VNCA is:

- land; or

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- another non-current asset that has an apparent value that is equal to or more than a limit set by Council.

Council sets the value for VNCAs, other than land for the following amounts:

- for plant or equipment - \$5,000;
- for another type of non-current asset - \$10,000.

For clarity, items with an estimated value greater than or equal to the above values are VNCAs. Those items with an estimated value below the values above are considered Surplus Assets.

Table 3: Disposal Contract thresholds

Contract Value	Disposal Routes
Plant, Equipment and any other VNCA worth more than \$5,000 (other than land)	<ul style="list-style-type: none"> • Public Tender • EOI • Available Exception
Surplus Assets worth less than \$10,000	<ul style="list-style-type: none"> • EOI • Public Tender • Public Auction • Recycle • Waste/dumping • Trade in • Donating to Government Agency or Community Organisation

Council will consider and apply the most appropriate disposal process to realise the best value for Council from the disposal.

Requirement for the Disposal of Land and Exceptions

Council will continue to dispose of land, or any interest in land in a manner consistent with the *LGR 2012*, Chapter 6 Contracting, Part 3 Default Contracting Procedures. These procedures require that, unless an exception applies, Council will dispose of land, or an interest in land by:

- EOI
- Tender
- Auction

There are a number of exceptions detailed in the LGR which may be exercised instead of undertaking an EOI, Tender or Auction and these are detailed in section 236(1). Exercise of the exceptions is subject to the following qualifications:

- For exceptions mentioned in subsections 236(1)(a) to (e), before the disposal, Council decides by resolution that the exception may apply to that particular disposal.
- For exceptions relating to disposal of land or an interest in land, the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in land including the market value of any improvements. A written report about the market

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value from a valuer registered under the *Valuers Registration Act 1992* (not an employee of Council) will be sufficient evidence of the market value.

- c) Point (b) immediately above does not apply to disposal of land or an interest in land which is disposed of under sections 236(1)(b), (1)(c)(ii) or (1)(f).

Applying the Sound Contracting Principles in Procurement and Disposal Processes

Council will apply, and have regard for, the Sound Contracting Principles in the following manner:

Value for money

The concept of value for money is not restricted to the price of the goods, services or works.

Council will consider a number of factors when assessing value for money, including:

- a) whole-of-life costs including acquisition, use, maintenance and disposal costs;
- b) contribution to the achievement of Council's policies and priorities;
- c) fitness for purpose, quality, service and support;
- d) internal administration costs;
- e) technical compliance costs;
- f) risk exposure; and
- g) the value of any associated environmental benefits.

Open and effective competition

Contracting Activities will be conducted by Council using an open and competitive process unless a specific exception applies. Open and effective competition will be achieved by ensuring that:

- a) procedures and processes for contracting are visible to Council, suppliers and the community;
- b) prospective suppliers are given fair and reasonable consideration; and
- c) evaluation of offers is undertaken pursuant to the legislation, procedures and evaluation criteria applicable to the Contracting Activity.

The development of competitive local business and industry

Council encourages the development of competitive local businesses and will endeavour to promote and support competitive local industry while conducting Contracting Activities.

In addition to standard evaluation criteria, Council may also consider the following factors when conducting Contracting Activities:

- a) creation of local employment opportunities;
- b) economic growth within the local area including economic growth that aligns with the implementation of the *Regional Economic Development Strategy 2013-2033*;
- c) readily available servicing support and supply chain capability; and
- d) the benefit to Council of contracting with local suppliers and the associated local commercial transactions that flow from these engagements.

