



Procurement Policy

| | |
|--------------------------------|--|
| Strategic Reference | Provide leadership, good governance, and efficient, effective and responsive Council services |
| File Reference | 18/067/229 |
| Responsibility | Manager Finance & Procurement |
| Version Number | Version 2.0 |
| Effective Date | August 2007 |
| Last Revised Date | 17 May 2016 (C16062) 20 August 2019 (C19157) |
| Minute Book Reference | C16062 / C19157 |
| Next Review Date | July 2021 |
| Relevant Legislation | Local Government Act 1999 Competition and Consumer Act 2010 (Cwth) Competition Policy Reform (SA) Act 1996 Local Government (Elections Act) 1999 – Caretaker Provision Freedom of Information Act 1991 Independent Commissioner Against Corruption Act 2012 Ombudsman Act 1972 State Records Act 1997 |
| Related Policies | Caretaker Policy Code of Conduct – Employees – Gazetted Credit Card Policy Fraud and Corruption Prevention Policy Internal Control Framework Policy Prudential Management Policy Records Management Policy and Procedure Sale & Disposal of Council Land & Other Asset Policy |
| Related Procedures / Documents | TBA |

1. Introduction

- 1.1 This Policy provides part of the framework for how procurement activities will be undertaken at the District Council of Yankalilla and applies to all employees of Council directly responsible for procuring any goods, works and services.
- 1.2 It also applies to employees involved in activities that result in the procurement of goods, works and services during the course of performing their duties.

Procurement Policy

2. Legislative Requirements and Corporate Policy Context

- 2.1 This Policy has been developed primarily to adhere to Section 49 of the Local Government Act 1999.
- 2.2 Section 49(a1) of the Local Government Act 1999 requires Council to develop and maintain procurement controls including policies and procedures directed towards:
 - 2.2.1 Obtaining value in the expenditure of public money;
 - 2.2.2 Providing for ethical and fair treatment of participants; and
 - 2.2.3 Ensuring probity, accountability and transparency in procurement operations.
- 2.3 Policies developed must include:
 - 2.3.1 The contracting out of services;
 - 2.3.2 Competitive tendering and the use of other measures to ensure that services are delivered cost-effectively;
 - 2.3.3 The use of local goods and services; and
 - 2.3.4 The sale or disposal of land or other assets.
- 2.4 This Policy has also been developed in order for Council members and employees to be aware of specific provisions in the Independent Commissioner Against Corruption Act 2012 (ICAC Act) and their relationship with procurement activities undertaken by a public authority, as identified by the ICAC Act.
- 2.5 In particular, Section 5 of the ICAC Act specifically defines acts of corruption, misconduct and maladministration in public office.
- 2.6 The ICAC Act specifically identifies both local government body elected members and employees as “public officers” of “public authorities” for the purposes of the provisions contained in the Act. Therefore, this Policy applies to both employees and elected members and is to be read in conjunction with the Council’s Code of Conduct and Practice Policies.

3. Definition

- 3.1 For the purpose of this policy:
 - 3.1.1 “Acquisition Plan” means a document that outlines the procurement methodology and strategy to be undertaken in procuring the required goods, works, or services. This plan is approved by the appropriate approving body/person before the procurement strategy commences.
 - 3.1.2 “Authorising Officer” means the person who has the authority to approve expenditure as per Council’s Financial Delegations.

Procurement Policy

- 3.1.3 “Common Use Arrangements or Strategic Alliances” is seeking tenders and establishing contracts as part of a purchasing group, aggregating spend to make an offering more commercially viable or accessing contracts already established by other spheres of government.
- 3.1.4 “Direct Sourcing” means a procurement process undertaken by directly approaching and negotiating with one or more suppliers.
- 3.1.5 “Employee” means a person employed by the District Council of Yankalilla.
- 3.1.6 “Expression of Interest” (Eoi), also referred to as a Registration of Interest (Rol), is a formal market approach and the first step in a multi stage procurement process in a documented Acquisition plan. Suppliers are invited to express/register their interest in providing particular goods or services and the responses evaluated to develop a shortlist for future market approaches or negotiations, using a more detailed specification.
- 3.1.7 “Open Tender” means a tender is advertised to the entire market via an open invitation process e.g. SA Tenders website accompanied by an advertisement.
- 3.1.8 “Panel Contract” or “Vendor Panel Contracts” means a contractual arrangement established with at least two suppliers for the anticipated provision of Goods, Works or Services, as and when required over a specified period of time.
- 3.1.9 “Preferred Supplier” means a Supplier that is preferred by the Council to supply certain Works, Goods or Services, following a competitive tender process.
- 3.1.10 “Public Authority” means a local government Council, as defined by the ICAC Act Schedule 1 is for the purposes of this Policy.
- 3.1.11 “Purchase Order” means an official document used to authorise and record the purchase of goods, works or services.
- 3.1.12 “Quotation” means a formal request to obtain offers from one or more suppliers. This is generally used for low value purchases and therefore is not advertised publicly.
- 3.1.13 “Request for Information” (Rfi) means an informal means of researching the particular good or service and the possible solutions or approaches available in the market. As such, informal market research and the gathering of intelligence through an Rfi do not require any formal procurement approvals to be sought.
- 3.1.14 “Request for Proposal” (RfP) means a formal request where potential suppliers are invited to suggest ways and means of meeting an identified need, allowing scope for variety and innovation.
- 3.1.15 “Request for Quotations” (RfQ) means an invitation for quotations based on clearly defined and a specific statement of requirements.
- 3.1.16 “Request for Tender” (RfT) means a publicly advertised invitation to offer based around a clearly defined and specific statement of requirements.

Procurement Policy

3.1.17 “Select Tender” means the selection of suppliers that will be invited to tender. Selection may be from a multi-use list, a list of potential suppliers that have previously responded to an Expression of Interest (EoI), or a list of potential suppliers that have been granted a specific licence or comply with a legal requirement.

4. Policy

4.1. Procurement Governance Principles

The following key governance principles underpin all procurement activities for all Council representatives:

- 4.1.1 **Value for Money** achieves the best outcome for the most appropriate price. This includes but is not limited to, taking into account fit for purpose procurement, whole of life cost, timeliness of expected completion and flexibility to adapt to the needs of the requirement, quality, sustainability, intangible costs and benefits, service, support and warranty.
- 4.1.2 **Transparent and Fair Competition** is ensured by providing equitable and appropriate access to Council’s procurement activities. Council recognises the commercial and economic benefits of open and effective competition. Council will encourage healthy competition in the markets from which it purchases.
- 4.1.3 **Ethical Behaviour and Probity** are essential in ensuring the highest professional standards are upheld in confidential business dealings conducted by both Council members and employees in relation to procurement activities. Council members and employees have a responsibility to act with integrity and impartiality and behave with fairness, independence, and professionalism to ensure probity within procurement processes. At all times Council members and employees will observe Council’s Code of Practice and Conduct Policies respectively, throughout their involvement with procurement processes.
- 4.1.4 **Risk Management** ensures that appropriate risk management practices are in place for procurement activities including risk identification, assessment, and implementation of controls.
- 4.1.5 **Financial Responsibility** ensures that Council employees procure goods, works or services where there is an approved and allocated budget for that purchase, and where a Council employee with the appropriately delegated financial authority approves the purchase.
- 4.1.6 **Compliance with Statutory Obligations** refers to the obligation to comply with all legal and common law obligations.
- 4.1.7 **Social, Economic and Environmental Sustainability** – Council is committed to maximising the positive impact of its activities to benefit the local community, its economy, and the environment. Where all other considerations are equal, Council may prefer to engage a local contractor or supplier to promote local employment opportunities and economic growth.

Procurement Policy

In addition, in order to minimise Council's impact on its environment, where all other factors are reasonably equal, Council will seek to achieve the following:

- 4.1.7.1 Purchase environmentally friendly or recycled products;
- 4.1.7.2 Purchase to conserve natural resources;
- 4.1.7.3 Integrate waste minimisation and energy reduction in its purchasing practices; and
- 4.1.7.4 Provide leadership to local business and the community in promoting the use of environmentally sensitive goods and services.

4.2 Common Procurement Activities

- 4.2.1 Each procurement of goods, works or services involves common elements at specific stages of the procurement lifecycle, prior to engaging or executing a contract.
- 4.2.2 These activities are crucial to ensure a balance of the governance principles outlined above. At a high level the elements are highlighted in order to achieve those principles throughout every stage of a procurement by Council;
 - 4.2.2.1 Planning the procurement's desired outcome (including budget approval);
 - 4.2.2.2 Requesting information from the market segment required;
 - 4.2.2.3 Approaching the market;
 - 4.2.2.4 Evaluating market responses;
 - 4.2.2.5 Recommending a successful responder;
 - 4.2.2.6 Contract Negotiation;
 - 4.2.2.7 Contract Execution;
 - 4.2.2.8 Contract Performance Management; and
 - 4.2.2.9 Contract Close-out.

4.3 Recognised Procurement Methods

- 4.3.1 Council will purchase goods, works or services in accordance with accepted methods of procurement.
- 4.3.2 The determination of the procurement method will be documented through the production of a procurement Acquisition Plan.
- 4.3.3 Primarily the Acquisition Plan details why the procurement method chosen is the most appropriate, in accordance with the Procurement Thresholds Matrix,

Procurement Policy

for that purchase for subsequent approval by the appropriate delegate prior to proceeding.

- 4.3.4 The procurement estimated cost, complexity and risk will generally determine the method to engage a contractor or supplier.
- 4.3.5 Accepted formal procurement methods include;
 - 4.3.5.1 Direct Negotiation
 - 4.3.5.2 Request for Quotation (RfQ)
 - 4.3.5.3 Request for Proposal (RfP)
 - 4.3.5.4 Request for Tender (RfT)
 - 4.3.5.5 Select RfP or RfT
 - 4.3.5.6 Expression of Interest (Eoi) followed by RfP or RfT.
- 4.3.6 Over and above these accepted formal methods of procurement, officers may use an informal Request for Information (Rfi). An Rfi is an efficient means to test the market for suitable potential supplier information, as a precursor to determining whether to formally enter a procurement process.
- 4.3.7 Relatively small purchases can be made either by direct sourcing facilitated by petty cash, invoice or corporate credit card.
- 4.3.8 Purchases more complex in nature are executed subsequent to market testing in the form of gaining a number of supplier quotations dependent on the inherent risk and the proposed cost of the procurement.

4.4 Procurement Value Thresholds

- 4.4.1 Each procurement method is directly aligned to a minimum value threshold within Council's procurement thresholds set out below.
- 4.4.2 The minimum procurement activity that must be undertaken in order to engage a contractor or supplier, is determined by the procurement value threshold and method outlined in the procurement thresholds below.
- 4.4.3 All stated threshold values exclude GST.
- 4.4.4 **Supplies up to and including the value of \$1,000 – Direct Sourcing**
 - 4.4.4.1 This procurement method is for low risk, low value supplies where a written quotation is not required prior to engaging with the supplier.
 - 4.4.4.2 For the use of a corporate credit card, Council has a dedicated Policy governing the use of corporate credit cards.

Procurement Policy

4.4.4.3 Other less common forms of direct purchasing are purchases made via petty cash or direct invoicing without the need of a purchase order for supplies of goods, works or services of a low risk nature.

4.4.5 Supplies between the value of \$1,001 and \$50,000 – Request for Written Quotations

4.4.5.1 For supplies between the value range outlined at clause 4.4.4, Council must complete a RfQ procurement with suppliers.

4.4.5.2 The value ranges determining the minimum number of written quotations required are as follows;

4.4.5.3 One Written Quotation - \$1,001 up to \$10,000.

4.4.5.4 Two Written Quotations - \$10,001 up to \$20,000.

4.4.5.5 Three Written Quotations - \$20,001 up to \$50,000.

4.4.5.6 On receiving all quotations from suppliers, they are to be evaluated with the preferred option being the most advantageous to Council, in considering all procurement governance principles per section 4.1 of this Policy.

4.4.5.7 The procuring officer in consultation with the evaluation team, if required, will make a recommendation for acceptance and forward all documentation to the appropriate authorising officer for approval.

4.4.6 Supplies between the value of \$50,001 and \$100,000 – Select Tender

4.4.6.1 This procurement threshold entails Council undertaking either a formal invitation requesting tenders (RfT) or formal invitation requesting quotations from suppliers.

4.4.6.2 The procurement process may be undertaken by approaching the market via a 'Select Tender' process.

4.4.6.3 When undertaking a Select Tender or Quotation process, then a minimum of three (3) quotations must be obtained, prior to Council staff engaging in a formal evaluation process.

4.4.6.4 If for whatever reason, at least three (3) quotations are not able to be obtained from selected suppliers, then the reasons for this are to be documented by the procurement Evaluation Panel.

4.4.7 Supplies over \$100,001 – Open Tender

4.4.7.1 All procurements over this value threshold will be subject to an Open Tender process (SA Tenders) through public advertisement for responses, with no predetermined limitation on the amount of suppliers responding to the invitation.

Procurement Policy

4.4.7.2 An Open Tender process may take the form of an initial Expression of Interest (Eol) that may lead to a Request for Tender (RfT) or a Request for Quotation (RfQ) from prospective suppliers.

4.4.7.3 Council also has the option of initiating the procurement process by a RfT or RfQ, eliminating the requirement for an Eol.

4.5 Prequalification of Suppliers

4.5.1 Where possible, Council will establish contracts by conducting a prequalification process for Contractors. Each of these prequalification processes will be conducted in accordance with the appropriate Registration of Interest (Rol) process.

4.5.2 Participation in this process will allow contractors to become a pre-qualified for the provision of particular types of goods, works and services.

4.5.3 Pre-Qualified Panel Contracts

4.5.3.1 Council may enter into agreements where contractors complete a pre-qualification process in order to carry out specific tasks on its behalf.

4.5.3.2 In these circumstances the contractor will have successfully demonstrated their ability to meet set minimum criteria that would normally be tested through a once-off procurement.

4.5.3.3 Each of these pre-qualification processes will be conducted in accordance with Council's Registration of Interest policies and procedures.

4.5.3.4 Typically projects or tasks undertaken through arrangements with a pre-qualified contractor are of a regular nature and/or are required to be carried out at short notice.

4.5.4 Contracts established under this method will require quotations or tenders as appropriate to be sought from suppliers for each individual procurement, subsequent to becoming a pre-qualified supplier with Council.

4.6 Common Use Arrangements and Strategic Alliances

4.6.1 Common use arrangements come about either through procurement arrangements made with peak local, state or federal government procurement organisations, or through opting into strategic alliances with specialist procurement entities.

4.6.2 The aim of procuring through these arrangements is to economies-of-scale benefits that would otherwise be compromised if Council procured solely on its own.

4.6.3 When appropriate the aim of procuring via these methods is to:

4.6.1.1 Reduce direct and indirect purchasing costs; and/or

Procurement Policy

4.6.1.2 Improve delivery and/or quality of outcomes to residents; and/or

4.6.1.3 Attract more competition or a more suitable field of providers to respond to a tender call.

4.6.4 Council currently leverages alliances with entities such as LGA Procurement (LGAP), Procurement Australia (PA), District Council of Alexandrina, Southern & Hills LGA, along with other local, state and federal government entities.

4.7 Purchase Order Governance

4.7.1 Purchase Orders must be raised for the purchase of goods, works or services prior to the purchase being made.

4.7.2 Single one-off purchases shall be the total or estimated amount of the purchase (excluding GST).

4.7.3 For any particular contract, cumulative ongoing purchases over a period of time shall not breach the original total value (excluding GST) contained in the applicable contract terms and conditions.

4.7.4 Splitting of purchases to bring expenditure within lower limits of delegated authority is strictly prohibited.

4.7.5 If it is discovered a supplier's executed contract amount or agreed payment milestones (excluding GST) have been disaggregated to reduced invoice amounts, this shall be reported to the Manager, Finance and Procurement for further investigation and disciplinary action if required.

4.8 Delegations

4.8.1 Appropriate levels of authority to approve procurement activities are detailed in Council's Delegations Register.

4.8.2 As with the current approval structure for delegated authorities, the limits put in place will be strictly adhered to with the onus being on the individual employee to ensure those limits are not breached or abused.

4.8.3 Any changes to the current levels, or an authorisation level for a new position, require approval from the Chief Executive Officer (CEO).

4.8.4 In line with these provisions, all purchase order requisition requests that do not have the appropriate level authorisation will be refused.

4.9 Dispensations from Policy

4.9.1 Dispensations from this, or other Council procurement policies, must be given due consideration in the context of the principles of this Policy and the provisions of s49 of the Act.

4.9.2 Dispensations may be either general dispensations from specific provisions of procurement policies, or a single source supply dispensation, including emergency supplies in extenuating circumstances.

Procurement Policy

- 4.9.3 Dispensations from the procurement processes and requirements outlined in this Policy require the approval of the CEO.
- 4.9.4 Any dispensation approved by the CEO valued over \$50,000 is to be included in the subsequent period's Administration Report to Council.
- 4.9.5 Single source supply dispensations may be considered where at least one of the following reasons applies:
 - 4.9.5.1 There are only a limited number of suppliers with the capability, experience, and suitability to meet needs and no alternative exists;
 - 4.9.5.2 No submissions are received in a procurement process or the submissions received did not meet the specification requirements;
 - 4.9.5.3 The need for compatibility with existing systems or services;
 - 4.9.5.4 Obligations under warranty or other contractual arrangements requiring the supply of goods, works or services from a particular supplier;
 - 4.9.5.5 An absence of competition due to technical reasons, including but not limited to exclusive licence, proprietary information, or protection of Intellectual Property;
 - 4.9.5.6 Value in the procurement process will not be achieved by the prescribed market approach, and there is demonstrated advantage in amending the approach; and
 - 4.9.5.7 A response to a Council resolution with limited timeframes.
- 4.9.6 If a procurement is deemed and approved as an emergency supply, in these cases;
 - 4.9.6.1 Expenditure must be within the employee's delegated financial authority.
 - 4.9.6.2 Expenditure must be limited to that required to alleviate the emergency situation only; and
 - 4.9.6.3 The employee must ensure that appropriate methods of purchase are resumed as soon as practicable.
- 4.9.7 All dispensation requests, regardless of their cause, must be made in writing and must outline the reasons for the request and any risks which may be involved in the approach.
- 4.9.8 Where a Funding Agreement specifies that Council must follow a prescribed tendering or selection process which differs from that outlined in this Policy, the project funded under that Agreement must follow the tendering or selection process outlined in the Funding Agreement and records of this must be recorded in Council's records management system according to the provisions for Procurement Policy Dispensations.

Procurement Policy

4.10 Conflicts of Interest

- 4.10.1 Council members shall at all times act in accordance with the conflicts of interest requirements in the Local Government Act 1999, specifically Section 73 detailing when a member will be required to disclose an interest in a matter.
- 4.10.2 Similarly, Council employees and contractors shall at all times act in accordance with the conflicts of interest provisions in Section 120 of the Act, when an employee or contractor will be required to disclose an interest in a matter.
- 4.10.3 In addition, Council members, employees and contractors shall observe the specific provisions concerning conflicts of interest outlined in their respective Codes of Practice and Conduct Policies.

4.11 Outsourcing

- 4.11.1 Any proposal to purchase by outsourcing any service or function currently performed predominantly by an employee, must be approved by the Chief Executive Officer (CEO) and must adhere to the provisions of this Policy.

4.12 Public Consultation

- 4.12.1 Where a purchase requires public consultation, then such consultation must be conducted in accordance with Council's Public Consultation Policy.

4.13 Complaints

- 4.13.1 Complaints about any procurement process shall be subject to Council's Complaints Policy and any accompanying complaints handling procedures.

4.14 Health, Safety and Welfare

- 4.14.1 Council will only engage contractors and suppliers who are able to maintain an appropriate level of health, safety and welfare acceptable to Council for the contract they are engaged to complete.
- 4.14.2 As a minimum, this will entail compliance with all applicable legislation, regulations, project requirements, standards, and Council policies, and as specified in terms and conditions of any contractual arrangements.

Procurement Policy

5. Further Information

This policy will be available for inspection at the Council office listed below during ordinary business hours and provided to interested parties as per Council's Fees and Charges Register. Copies are available to be downloaded, free of charge, from Council's internet site: www.yankalilla.sa.gov.au

District Council of Yankalilla
1 Charles Street
Yankalilla 5203

Phone: (08) 8558 0200

Fax: (08) 8558 2022

Email: council@yankalilla.sa.gov.au

Office hours: Monday to Friday, 9.00am to 5.00pm (except public holidays)

6. Grievances

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

7. Review Cycle

This document is subject to review in two (2) years from the date of authorisation.

8. Document History

| Date | Version | Council Resolution No. | Description of changes |
|--------------------|---------|------------------------|------------------------|
| August 2007 | | | Adoption of Policy |
| May 2016 | | C16062 | Review of Policy |
| August 2019 | | C19157 | Review of Policy |
| July 2021 | | | Review of Policy |