

Council Policy

Procurement



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2 style="margin: 0;">PROCUREMENT</h2>
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Policy Number:	GOV-08
Responsible Department(s):	Governance & Risk
Relevant Delegations:	Nil
Other Relevant Policies:	Disposal of Land Policy Disposal of Materials Policy Fraud & Corruption Prevention Policy Prudential Management Policy Code of Conduct for Council Employees
Relevant Procedure(s):	(To be updated administratively)
Relevant Legislation:	<i>Local Government Act 1999</i>
Policies and Procedures Superseded by this policy on its Adoption:	Procurement & Purchasing Policy, Item 12.1, 19 – 28/5/13
Adoption Authority:	Strategic Planning & Development Policy Committee
Date of Adoption:	8 November 2016
Effective From:	28 November 2016
Minute Reference for Adoption:	Item 12.3, 54
Next Review:	No later than November 2019 or as required by legislation.

PROCUREMENT

1. INTRODUCTION

- 1.1 In compliance with Section 49 of the Local Government Act 1999 (**Act**), the Adelaide Hills Council (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.

2. POLICY OBJECTIVE

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. SCOPE

- 3.1 This Policy covers the required conduct for all procurement activities associated with the acquisition of Goods, Works or Services of any value by the Council. This includes tendering arrangements and the contracting of services and applies to all Council staff.
- 3.2 However, this Policy does not cover:
 - 3.2.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
 - 3.2.2 the disposal of land and other assets owned by the Council; or
 - 3.2.3 the purchase of land by the Council.

4. PROCUREMENT PRINCIPLES

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

- 4.1 *Encouragement of open and effective competition*
 - 4.1.1 Open and effective competition is the central operating principle in pursuit of the best outcome.
 - 4.1.2 Openness requires procurement actions that are visible to the Council, ratepayers and suppliers/contractors. The probability of obtaining the best outcome is generally increased in a competitive environment.
 - 4.1.3 Council will create effective competition by maximising the opportunities for firms to do business with Council through the selection of procurement methods suited to market conditions, the nature of the procurement, and the objectives of the procurement overall.
 - 4.1.4 Council will offer and provide feedback, where sought, to unsuccessful bidders.
- 4.2 *Obtaining Value for Money*
 - 4.2.1 Value for money involves obtaining goods, works or services for the Council that best meet the end user's needs at the lowest total cost with the minimum level of acceptable contractual risk.
 - 4.2.2 This is not restricted to price alone.

- 4.2.3 An assessment of value for money must include, where possible, consideration of fitness for purpose, fair market prices, local economic development and whole of life costs. 'Whole of life' includes, purchase price, cost of spares, running costs, post-delivery support, effective warranties, cost of replacement, installation costs, etc.

4.3 *Probity, Ethical Behaviour and Fair Dealing*

- 4.3.1 Council will not use or disclose information that confers unfair advantage, financial benefit or detriment on a supplier.
- 4.3.2 Officers engaged in purchasing should at all times undertake their duties in a professional, ethical, honest and impartial manner, act responsibly and exercise sound judgment by observing the highest standards of integrity and professional conduct in line with the Code of Conduct requirements.

4.4 *Accountability, Transparency and Reporting*

- 4.4.1 Accountability in procurement means being able to explain and evidence what has happened. An independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.
- 4.4.2 Delegations define the limitations within which Council employees are permitted to work. They ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level. As such, Council has delegated responsibilities to employees relating to the expenditure of funds for the purchase of goods and services and the acceptance of tenders.
- 4.4.3 Employees must be able to account for all decisions and provide feedback on them. Additionally, all procurement activities will leave an audit trail for monitoring and reporting purposes.

4.5 *Ensuring compliance with all relevant legislation*

- 4.5.1 To ensure purchasing activities are conducted in accordance with legislative and common law responsibilities. These include but are not limited to the *Local Government Act 1999*, *Competition and Consumer Act 2010*, the *Independent Commissioner Against Corruption Act 2012*, the *Freedom of Information Act 1991*, National Competition Policy and other relevant legislation, industrial awards and agreements and international trade agreements.

4.6 *Sustainable Procurement*

- 4.6.1 Sustainable procurement is defined as a process whereby Council meets its procurement needs in a way that achieves value for money on a whole-of-life basis in terms of generating benefits not only to the organisation, but also to our community, the economy and the environment.
- 4.6.2 Council encourages the consideration, where deemed appropriate, of sustainable and social inclusion elements such as:

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- 4.6.2.1 Creating employment and training opportunities (particularly among disadvantaged groups such as people with disability or mental illness, migrants, Indigenous) thus providing social inclusion and an opportunity for those to participate in the local community;
 - 4.6.2.2 Diversity and equality in the supplier market – encouraging a diverse base of suppliers (e.g. minority or under-represented suppliers); and
 - 4.6.2.3 Local sustainability – building and maintaining healthy, strong communities, support social inclusion and enhancing wellbeing of local residents by striving to generate local employment.
- 4.6.3 Council will take into account accessibility of local providers when planning and designing infrastructure or services that will require external procurement.
- 4.6.4 Council will endeavour to provide support to local enterprises by holding briefings to encourage development of capacity to meet the needs of Council.
- 4.7 *Environmental Preference*
- Council will seek to:
- 4.7.1 promote the purchase of environmentally friendly goods and services that satisfy value for money criteria;
 - 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 engage suppliers and/or contractors who are able to maintain a level of WHS that is acceptable in accordance with Council’s WHS Policies and Procedures and any additional requirements specified in terms and conditions of contractual arrangements.

5. 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:

5.1 *Direct Purchasing*

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

5.1.2 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 *Request for Quotations (RFQ)*

5.2.1 This is where Council obtains written quotations from prospective suppliers.

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

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

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

5.3 *Requests for Expressions of Interest (REOI)*

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

5.3.2 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.

5.4 *Request for Tenders (RFT)*

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

5.4.2 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.

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

5.5 *Panel contracts*

5.5.1 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:

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

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

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

5.6 *Strategic alliances*

5.6.1 This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations.

6. PROCUREMENT CONSIDERATIONS

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

6.1 *Value of the Purchase*

Value of Purchase (\$)	Minimum Procurement Requirement	Applicable Procurement Method
< \$10,000	One quotation	Direct Purchasing Request for Quotations (RFQ) Request for Expressions of Interest (REOI) Request for Tender (RFT) Panel Contracts Strategic Alliances
\$10,000 to \$100,000	Three quotations	Request for Quotations (RFQ) Request for Expressions of Interest (REOI) Request for Tender (RFT) - Open or Select Panel Contracts Strategic Alliances
> \$100,000	Open Request for Tender or EOI	Request for Expressions of Interest (REOI) Request for Tender (RFT) – Open

The value of the purchase will be calculated as follows:

6.1.1 *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);

- 6.1.2 *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- 6.1.3 *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- 6.1.4 Splitting of amounts to bring expenditure within lower limits is not permitted.
- 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 Council will document the reasons for entering into specific procurement methods or contracts other than those resulting from a competitive quoting, tender process or for purchases less than \$1000. Records to be stored in Council’s Records Management System

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 Chief Executive Officer (or where this power is delegated to a Procurement Committee) may waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this Policy.

9. DELEGATIONS

- 9.1 Council makes the following delegations:
 - 9.1.1 The Chief Executive Officer has the delegation to approve, amend and review any procedures that shall be consistent with this Policy.
 - 9.1.2 The Chief Executive Officer has the delegation to enter into contracts and approve expenditure to a value of \$500,000 (GST exclusive).

- 9.1.3 The Chief Executive Officer may sub-delegate the authority to Council Officers to enter into contracts and approve expenditure to a value of \$300,000 (GST exclusive).
- 9.1.4 The Chief Executive Officer and one other Council Officer at Director level may jointly approve payment of operational expenditure to a value of \$1,000,000. Examples of this type of expenditure are:
- Budgeted loan repayments
 - Budgeted non-elective services (e.g. insurance, waste costs)
 - Fortnightly payroll
 - Creditor Payments

10. PRUDENTIAL REQUIREMENTS

- 10.1 In some circumstances a procurement process may require additional due diligence in accordance with the *Local Government Act 1999* prudential requirements. If this occurs the process will be subject to the Council's Prudential Management Policy.

11. AVAILABILITY OF THE POLICY

- 11.1 This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.