



PROCUREMENT PROCEDURES & GUIDELINES FOR OFFICERS

CODE OF CONDUCT

All officers must comply with the Council's Code of Conduct. In essence, this requires officers to apply the highest standards of probity and ethical behaviour when conducting procurement activities. Guidelines to assist officers in this regard is appended to this document.

DEFINITIONS

Contract	A legally enforceable agreement used to engage a successful tenderer.
Contractor	A person or entity engaged under contract to supply goods and/or services and includes the contractor, supplier, sub-contractors, consultants, agents and employers.
Consultant	A person or entity that provides professional or expert advice.
Emergency	Means a sudden state of danger or a condition that requires immediate treatment or attention.
Expression of Interest	A selective tendering method as provided in the Tendering Regulations.
Goods and Services	means all kinds of goods and services, consumables, construction, maintenance, materials, facilities, capital equipment, property and leasing.
Instalment Contract	Means a contract requiring the payment of instalments by or to the Council over a period of two or more years.
Level of Authority	The level of authority granted to a Council officer (delegated authority) to incur a maximum amount of expenditure without further approval.
Open Tender	The method by which tenders for the proposed contract are invited by public advertisement.

Probity	A good and proper process encompassing the principles of integrity, honesty and uprightness.
Procurement	The whole process of acquiring goods and services externally, either outright or by lease. Procurement also extends to the disposal of a good.
Preferred Suppliers	The term 'preferred supplier arrangement' describes a contract under which there is a standing offer to provide a particular good or service to the Council over the period of the contract. These contracts are often used for goods and services that need to be procured regularly and/or at short notice. Preferred supplier arrangements will generally be established for a period of up to three years.
Purchase Order	An official Council order issued for the supply of goods and/or services to the Council.
Quotations	An offer, made verbally or in writing, in response to an invitation to supply specified goods or to perform a specific service.
Requisitioner	The officer who authorises the raising of an official Council order.
Requester	The officer who requests the raising of an official Council order.
Risk	A risk is the probability of the occurrence of an incident or event that could cause a degree of harm to the Council in terms of economic loss, property, people or the environment over a specified period of time.
Selective Tender	<p>The method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest or by recognised contractors selected from a list prepared or adopted by the Council are invited to tender for proposed contracts of a particular kind.</p> <p>Expressions of Interest – suppliers are invited to indicate their interest in submitting a tender to provide goods and/or services. Respondents are evaluated against pre-determined criteria and those best meeting the criteria are invited to tender.</p> <p>Recognised contractors – an invitation is extended to a limited number of pre-qualified tenderers to provide</p>

goods and/or services as set out in the relevant tender specifications.

Supply Agreements Supply agreement means a contract for the purchase of goods, materials or services specified by the State Contracts Control Board, a contract by Council with another council, or with the Crown or a statutory body representing the Crown.

Tender A tender submitted or proposed to be submitted in accordance with the requirements of Part 7 (Tendering) of the Local Government (General) Regulation

Tender Committee A committee comprising of at least three adequately skilled members established to evaluate and make recommendations to Council regarding tenders received.

Levels of Delegated Authority:

The following levels of delegated authority will apply: -

Position	Level of Authority
General Manager* ^	\$149,999
Deputy General Manager* ^	\$100,000
Director, Planning and Development^	\$50,000
Director, Assets and Environment^	\$50,000
Manager of Finance and Administration*	\$50,000
Manager of Public Relations	\$50,000
Manager of Governance*	\$20,000
Manager of Planning	\$20,000
Manager of Human Resources	\$20,000
Manager of IT	\$20,000
Manager of Libraries, Community Services and Museum	\$20,000
Team Leaders – all areas	\$5,000
Personal Assistants	\$1,000
FDC Coordinator and Youth Officer	\$2,000
Building Maintenance Officer	\$2,000
Supervisor - Plant	\$5,000
Supervisors – Operational Services	\$2,000
Child Care Directors	\$1,000
* Limit excludes the investment of surplus funds	
^ Limit excludes Tenders approved by a Council resolution	

PROCUREMENT ACTIVITY

(A) Procurement Principles

'Value for money' – "value for money" is the core principle applying to the procurement process so as to ensure the best possible procurement outcome is achieved. 'Value for Money' is determined by taking into account the whole of life cycle of the procurement activity. This involves evaluating all proposals for a particular procurement activity against the applicable evaluation criteria and assessing all the relevant factors including initial costs, transportation costs, disposal, end of contract costs, suitability, flexibility, reliability, on-going costs, reputation and performance history of the supplier, occupational health and safety requirements, relevant risks, legal compliance and environmental sustainability. A decision on price alone does not necessarily represent the best value for money.

Open and Effective Competition where all potential suppliers will have the same opportunities to compete for Council's business and will be treated equitably based upon their legal, commercial, technical and financial abilities. Specifications must not be prepared to favour a particular supplier or group of suppliers, unless the procurement outcome cannot be reasonably met without such specifications.

Probity and ethical behaviour - Officers involved in the conducting of procurement activities will comply with the highest standards of probity and ethical behaviour. Specifically, officers will: - conduct all procurement activity fairly, impartially, consistently and professionally with all suppliers; maintain the confidentiality; declare any real or perceived conflict of interests; maintain adequate and appropriate documentation; ensure that their knowledge of the market is sound and up-to-date.

Risk management - Officers will conduct a risk assessment of the procurement activity and manage and apply appropriate risk mitigation strategies.

Sound financial management - Officers will apply the principles of good financial management at all times during the procurement activity;

Other Requirements

Resources – only purchase necessary products and services and select products and services that reduce Council's consumption footprint.

Waste – purchase in accordance with the waste hierarchy – "avoid, reuse, recycle".

Water and energy – purchase products energy wise and/or water saving products, including products with recycled content and those that reduce greenhouse emissions.

Pollution – avoid products that pollute the air, soil and water.

Toxicity – avoid purchasing hazardous chemicals that may be harmful to human health and/or the environment.

Biodiversity and habitat protection – purchase in accordance with biodiversity and conservation objectives.

Australian Standards - Goods and services acquired by Council will meet all relevant Australian Standards and be fit for the purposes acquired.

Unethical Suppliers - Council will not seek to benefit from suppliers that may be dishonest, unethical or unsafe. If there is evidence to support such behaviour, Council will discontinue dealing with such suppliers.

Judicial decisions - Council will not enter into contracts with suppliers who have had a judicial decision made against them (not including decisions under appeal) relating to employee entitlements that have not been paid.

Australian Owned - Where appropriate, and to the extent permissible by law, Council supports Australian owned suppliers and/or suppliers who manufacture in Australia.

Local Businesses - Where all other factors are equal, Council will give preference to local suppliers of goods and services.

(B) Pre-Planning

- a. Is there a need to acquire the goods or services? Before considering the procurement of a good or service you should establish whether there is a need.
- b. Are there sufficient funds available in the current budget to cover the costs associated with the procurement of the goods or services?
- c. Do you have the authority to commence the procurement activity?
- d. Do you understand Council's Procurement Policy, Procedures and Guidelines?
- e. Do you have the necessary skills to undertake the procurement activity?
- f. Identify any potential risk factors.

If you have any concerns about any of these issues, you should discuss them with your supervisor.

(C) Planning

- a. Develop an understanding of what the goods or services will be used for.
- b. Identify factors that should be considered for inclusion in the selection criteria.

- c. Determine what method of procurement is required i.e. open (value is less than \$2000), preferred supplier list, quotation, Expression of Interest, tender.
- d. Ensure you have a sound and up-to-date knowledge of the market for the goods and/or services required;
- e. In planning the appropriate procurement process consideration should be given to the approach that best: -
 - Encourages competition that delivers the most favourable response from suppliers;
 - Ensures that the process does not limit or discriminate against a particular supplier or group of suppliers;
 - Adopt procedures that are consistent with the complexity of the procurement;
 - Recognise any industry regulations and/or licensing requirements that may affect the availability of suppliers;
 - Develop contractual and procurement documentation and specifications that will best protect the Council and its interests;
 - If there are any reasons why the procurement process cannot proceed in accordance with the requirements under the Policy or these procedures, the circumstances must be documented and referred to the relevant Director for consideration;

If you have any concerns about any of these issues, you should discuss them with your supervisor.

(D) Method of Procurement

It is the responsibility of the Council officer, with an approved level of authority, to select the method of procurement that best suits the particular procurement activity. Consideration must be given to factors such as 'value for money', the level of risk, timely supply etc. The conditions applicable to each procurement method are as follows: -

Value of Procurement Activity	Procurement Method/Conditions	Exceptions	Risk Assessment
Less than \$150,000	Preferred supplier list, State Government Contract, existing tender arrangements, existing Contract arrangements. No quotation is required unless there is more than one Preferred Supplier for the good or service.		Risks should already have been assessed as part of the procurement process. Responsible officer should review risk assessment to ensure

			relevant risks have been addressed.
Less than \$2,000	Quotations are not required to purchase items of less than \$2000.		Recognition of relevant risks to be undertaken by responsible officer.
\$2,001 to \$10,000	Select best 'Value for Money'. Where possible, obtain two verbal quotations.	Emergencies or as approved by General Manager, Deputy General Manager, Director or Manager.	Recognition of relevant risks to be undertaken by responsible officer.
\$10,001 to \$50,000	A minimum of two written quotations is required.	If despite reasonable efforts to obtain the required number of quotations, fewer than the required number are received or only a single source or specific unique supplier exists, the procurement activity may proceed if authorised by the relevant Director, Deputy General Manager or General Manager.	Recognition of relevant risks to be undertaken by responsible officer.
\$50,001 to \$100,000	A minimum of three written quotations is required.	If despite reasonable efforts to obtain the required number of quotations, fewer than the required number are received or only a single source or specific unique supplier exists, the procurement activity may proceed if authorised by the Deputy General Manager or General Manager.	Register of high priority risks including mitigations to eliminate or reduce each risk to an acceptable level to accompany request for a Council order.

\$100,000 to \$149,999	A minimum of three written quotations is required	If despite reasonable efforts to obtain the required number of quotations, fewer than the required number are received or only a single source or specific unique supplier exists, the procurement activity may proceed if authorised by the General Manager.	Register of high priority risks including mitigations to eliminate or reduce each risk to an acceptable level to accompany request for a Council order.
\$150,000 or over	Call of tenders is required.	State Government Contract or existing tender arrangements.	Documented analysis of project risks including a Risk Register and Risk Action Plan for high priority risk to be part of the Tender evaluation process.

If you are unclear on the selecting of the appropriate method of procurement, you should discuss the issue with your supervisor.

(E) Selection Criteria

A selection criteria needs to be established to enable an evaluation to ensure that Council receives the best 'value for money'. This includes considering factors such as: -

- Whole of life costs including initial, ongoing, transportation, and disposal costs;
- Ability to meet Policy and Policy Guideline requirements;
- Innovation offered;
- Quality offered;
- Delivery and supply timeframes offered;
- Previous performance of supplier;
- Capability of the supplier, including technical, management, human resource, organisational and financial capability and capacity as well as adequacy and currency of insurances;
- Suppliers Occupational health and safety management practices and

- performance;
- Experience of supplier and personnel proposed;
- Suppliers workplace and industrial relations management practices and performance;
- Suppliers environmental management practices and performance;
- Value adding components such as economic, social and environmental development initiatives, if appropriate and relevant to the procurement;
- Assessment of high risk factors and action plans for the elimination or reduction of risks to an acceptable level; and
- Conformity of proposal with Council requirements;

When considering these or other factors a weighting system should be developed prior to considering quotations, tenders, expressions of interest etc.

(F) Suppliers to be excluded

Council will not knowingly enter into contracts for the supply of goods and services from suppliers who: -

- Are subject to exclusion from procurement activity as a result of a breach of Council's Policies, Codes or Guidelines;
- Are bankrupt;
- Are subject to a winding up order;
- Are corporate entities with persons involved directly or indirectly in the management of the entity who are disqualified under corporations law;
- Have had a judicial decision made against them (not including decisions under appeal) relating to employee entitlements that have not been paid;
- Demonstrate an inability to meet the requirements of the Council's Policy, Code or Guidelines;

(G) Tenders

Council is required, in most instances, to call for Tenders if the value of the goods and services to be provided exceeds \$150,000.

Officers should ensure that all requirements under the Local Government (General) Regulation, Part 7, Tendering, are complied with.

A copy of the relevant Tender Checklist is appended.

(H) Commercial in Confidence

Commercial in Confidence information is information that, if released, may prejudice the business dealings of a party e.g. prices, discounts, profits, process information etc. Commercial in Confidence information should not be disclosed to third parties.

(I) Documentation

Full and complete documentation must be completed and retained for all aspects of the procurement process in order to support and justify decision-making. This documentation includes quotations received, correspondence received or sent, orders issued, tender/quotation register, delivery dockets, evaluations and recommendations, Risk Register and Action Plans, Council reports and resolutions etc.

(J) Official Council Orders

An official Council order must be issued for the procurement of all goods and services. The only exceptions to apply are utility services, legal costs and the like. Standing Orders may apply in certain circumstances. Council's Finance staff will provide guidance to staff in this regard.

(K) Cheque Requisition

In certain circumstance, payment for services by cheque requisition is permissible on the approval of the General Manager, Deputy General Manager, or a Director.

(L) Costing

The expenditure for goods and services procured must be accurately costed to the correct General Ledger Costing Account.

(M) Order Breaking

Orders cannot be divided into components or split for the purpose of avoiding the requirements of the Procurement Policy, the Procurement Policies and Procedures or the requirements under the Tender Regulation.

(N) Delivery acceptance

All incoming goods must be identified against the order, examined and certified as being correct and undamaged.

(O) Goods rejected / returned

If goods received are not acceptable for reasons of incorrect supply, faulty or damaged goods etc, the delivery docket should be marked "Goods returned" or "Goods to be returned" and submitted to the Creditors Clerk. It is the responsibility of the responsible officer to quarantine the goods, ready for collection, and to liaise with the supplier of the goods.

(P) Audit

Council's Governance Section may conduct spot audits to ensure compliance with the Procurement Policy and Procurement Policies and Procedures.

Council's External Auditor may also conduct audits as part of their audit process.

All staff will provide their cooperation during these audit processes.

(Q) Overview of Risk Types

The following should be taken as a guide to assist in risk identification: -

Category	Occupational	Asset Loss	Environmental	Liability	Business Interruption	Project
Sub Category	Workplace injury or fatality	Breach of Security	Health impairment to the community	Contract default	Equipment failure	Costs exceeds budget
	Occupational Hygiene	Asset loss accidents	Hazardous waste storage or disposal	Contractor bankruptcy	Industrial disputes	Income does not meet budget
		Drop in asset value	Pollution	Legal Liability		Completion time exceeds target
			Contamination			

(R) Breaches

If you are concerned that an officer has breached Council's Procurement Policy you should report the details to your supervisor or the Council's General Manager.

GUIDELINES FOR OFFICERS - EXTRACT FROM CODE OF CONDUCT

GUIDE TO ETHICAL DECISION MAKING

If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- What will the outcome be for the employee or councillor, work colleagues, the council, persons with whom you are associated and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

CONFLICT OF INTERESTS

If you are unsure as to whether or not you have a conflict of interests in relation to a matter, you should consider these six points:

- Do you have a personal interest in a matter you are officially involved with?
- Is it likely you could be influenced by a personal interest in carrying out your public duty?
- Would a reasonable person believe you could be so influenced?
- What would be the public perception of whether or not you have a conflict of interests?
- Do your personal interests conflict with your official role?
- What steps do you need to take and that a reasonable person would expect you to take to appropriately manage any conflict of interests?

You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439).

Fairness and Equity

You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

CONFLICT OF INTERESTS

A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.

You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.

Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

Private interests can be of two types: pecuniary or non-pecuniary.

What is a Pecuniary Interest?

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)

A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)

Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The decision on options that should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.

Generally speaking, token gifts and benefits include:

- a) Free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) The discussion of official business

- ii) Council work related events such as training, education sessions, workshops
- iii) Conferences
- iv) Council functions or events
- v) Social functions organised by groups, such as council committees and community organisations.
- b) Invitations to and attendance at local social, cultural or sporting events
- c) Gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

You must not:

- a) Seek or accept a bribe or other improper inducement
- b) Seek gifts or benefits of any kind
- c) Accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) Accept any gift or benefit of more than token value
- e) Accept an offer of money, regardless of the amount.

Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor or the general manager. The recipient, supervisor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else.

You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

The general manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the council without delay.

Members of staff of council must:

- a) Give their attention to the business of council while on duty;
- b) Ensure that their work is carried out efficiently, economically and effectively;
- c) Carry out lawful directions given by any person having authority to give such directions;
- d) Give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them;

In regard to information obtained in your capacity as a council official, you must:

- a) Only access council information needed for Council business;
- b) Not use that council information for private purposes;
- c) Not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council;
- d) Only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use And Security Of Confidential Information

You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

In addition to your general obligations relating to the use of council information, you must:

- a) Protect confidential information;
- b) Only release confidential information if you have authority to do so;
- c) Only use confidential information for the purpose it is intended to be used;
- d) Not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person;
- e) Not use confidential information with the intention to cause harm or detriment to your Council or any other person or body;
- f) Not disclose any information discussed during a confidential session of a council meeting.

Personal Information

When dealing with personal information you must comply with:

- a) The Privacy and Personal Information Protection Act 1998,
- b) The Health Records and Information Privacy Act 2002,
- c) The Information Protection Principles and Health Privacy Principles,
- d) Council's privacy management plan,
- e) The Privacy Code of Practice for Local Government

Use Of Council Resources

You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) The representation of members with respect to disciplinary matters
- b) The representation of employees with respect to grievances and disputes
- c) Functions associated with the role of the local consultative committee.

You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

You must not convert any property of the Council to your own use unless properly authorised.

You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Reporting Breaches Of The Code Of Conduct

You should report suspected breaches of the code of conduct by members of staff of council (excluding the general manager) or delegates to the general manager in writing. Suspected breaches of the code of conduct by the General Manager should be reported to the Mayor in writing.