



COUNCIL POLICY

Purchasing and Procurement

Policy Number:	PO058		
Strategic Plan Objective	Goal 5 – Responsible Governance		
Policy Owner:	Director Corporate and Community Services	Record Number:	16/14031[v6]
Responsible Officer:	Manager Financial Services	Minute Reference:	217/2019 (11/09/2019)
Date Adopted:	11/09/2019	Next Review Date:	September 2023

1. POLICY OBJECTIVES

This policy aims to:

- Define how Yorke Peninsula Council (Council) can acquire goods and services;
- Demonstrate accountability and responsibility to ratepayers;
- Be fair and equitable to all parties involved;
- Ensure that all processes are monitored and recorded; and
- Ensure that the best possible procurement outcome is achieved for Council.

Good purchasing and procurement outcomes will be achieved by committing to:

- Enhancing value for money through fair, competitive, non-discriminatory procurement;
- Promoting the use of resources in an efficient, effective and ethical manner;
- Probity, accountability and transparency in decision making;
- Competitive tendering and other measures to ensure that services are delivered cost-effectively;
- Using local goods and services wherever possible;
- Appropriately managing risk; and
- Ensuring compliance with all relevant legislation.

2. SCOPE

This policy governs how Council can and will contract out services, competitively tender and use other procurement practices to ensure that the principles above and Section 49 of the Local Government Act 1999 (the Act) are complied with.

2.1. This policy applies to:

- All procurement and purchasing activities relating to goods and/or services, including tendering and contracting, irrespective of the value or complexity;
- All Council employees authorised, through appropriate delegations, policies and procedures, to acquire goods and/or services for/on behalf of Council;
- The whole procurement process from identification of the purchasing need to contract management including identification of goods, works and services to be acquired, receiving or accepting goods on behalf of Council and any other procurement activity.

2.2. This policy does not cover:

- Non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
- The disposal of land and other assets owned by Council (see policy PO072 Disposal of Land and Other Assets); or
- The purchase of land by Council; or
- Caravan Park management contracts.

3. DEFINITIONS

Definitions are provided in Attachment 1.

4. POLICY STATEMENT

4.1. Purchasing and Procurement Principles

Council must have regard to the following principles in acquiring goods and services:

4.1.1. Encouraging open and effective competition

This will be fostered and maintained by providing suppliers and contractors with appropriate access to Council's purchasing and procurement opportunities.

Council will ensure, where reasonably practicable, that:

- There is reasonable access for all suitable and competitive suppliers and contractors to the Council's business;
- Where market circumstances limit competition, purchasing and procurement activities recognise this and associated methodology takes account of it;

- Adequate, identical and timely information is equally provided to all suppliers to enable them to quote/tender.

4.1.2. Value for money

This is not restricted to price alone and must include consideration of:

- How the goods/services meet the requirements of Council's strategic plans/ direction;
- Any relevant direct/indirect benefits to Council, both physical and non-physical;
- Efficiency and effectiveness of the proposed procurement activity;
- The performance history and quality, scope of services and support capabilities of each prospective supplier;
- Suitability of the proposed goods/services for the intended purpose;
- Whole of life costs;
- Council's internal administration costs;
- Technical compliance issues;
- Risk exposure;
- The value/impact of any associated environmental benefits/disadvantages.

4.1.3. Probity, Accountability and Transparency

- Impartial, fair, independent and open behaviour that demonstrates probity (ethical behaviour), integrity and fair dealing in all discussions and negotiations;
- Council will ensure all decisions are able to be explained and evidence provided to ensure that an independent third party can clearly see that a fair and reasonable process has been followed.

4.1.4. Legislative compliance

4.1.5. Encouraging competitive local business and industry development when evaluating suppliers, the following will be considered:

- Opportunities to encourage local employment;
- Increased availability of local servicing support;
- How convenient communications with the supplier will be for contract management;
- Local economic growth;
- Additional benefits to Council resulting from local business;
- The short and long term impact of the procurement on local business.

To the extent permitted by the law, Council may give preference to the engagement of local contractors (those operating within the Council boundaries) when all other commercial factors are considered equal.

4.1.6. Identification and management of risk

Risk management is integral in ensuring value for money and that procurement activities do not expose Council to increased/unnecessary risk. Council will manage risk in line with Council's PO091 Risk Management Policy and PR098 Risk Management Procedure.

Consideration must be given to the following:

Risk assessment:

- Ensure appropriate practices and procedures of internal control and risk management are in place including risk identification, assessment and implementation of controls;
- Assessing a potential supplier's capacity and capability to meet Council's requirements and identify any other factors which might result in works, goods or services not being successfully delivered.

Risk based approach to market:

- Approach to the market will be influenced by procurement risk assessments, with high risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

Work Health Safety (WHS):

Council is committed to achieving a high level of pro-active Work Health and Safety (WHS) management during its procurement processes and on-going management of services and contracts. Council seeks to engage service providers and contractors who can demonstrate appropriate WHS & Injury Management Systems (WHS&IMS) capability that, at a minimum, meet Council's WHS&IMS standards which will optimise safety management for employees utilised by Council. As a minimum, this will be:

- Compliance to the Work, Health and Safety Act (SA) and all associated Regulations, Codes of Practice and Standards;
- Cooperating with any safety policies, procedures and information provided by Council; and
- Identifying hazards associated with work being undertaken and ensuring all identified hazards are managed in accordance with the WHS legislation.

4.1.7. Environmental management

Council will place a high significance on:

- Natural resources are conserved;

- Environmentally sustainable practices are employed wherever practicable;
- Recycled and environmentally friendly products are purchased wherever possible;
- Waste and energy use is minimised;
- The development of products and services that have a low environmental impact is promoted;
- Industry and the community are encouraged in the use of environmentally sensitive goods and services.

4.1.8. Social Inclusion

Consideration may be given, where practicable, to investigate the inclusion of not-for-profit organisations (social enterprises) that benefit the community (for the purposes of engaging the disadvantaged).

4.2. Purchasing Methods and Limits

The purchase method of goods and services shall take the following into consideration to identify the appropriate approval and process:

- Purchase value from a single supplier which will be calculated as follows:
 - Single one-off purchase – the total amount, or estimated amount, of the purchase (GST exclusive);
 - Multiple purchases – the aggregated total, or estimated total, of all purchases (GST exclusive) within the current financial year across Council;
 - Ongoing purchases over a period of time – the gross value, or the estimated gross value, of the purchases (GST exclusive) over the term of a contract/agreement across Council;
- Potential benefits of a particular approach;
- Specific circumstances and/or objectives;
- Size of the market;
- Availability of local suppliers;
- Number of competent suppliers;
- Previous experience with suppliers;
- Council's leverage in the market;
- Organisational capacity/capability;
- Time constraints;
- Associated risks.

4.2.1. Purchasing limits

One or more of the purchasing methods in the table below should be utilised based on the value of purchases from a single supplier.

Purchase Method	Specific Requirements	Purchase Value **Actual or Estimated** (GST exclusive)	Authority to Approve Exemptions
Direct purchase	Purchase from a single supplier	Up to and including \$10,000	N/A
Quotations	A minimum of two (2) written quotes shall be invited	\$10,001 to \$50,000	Director
Quotations	A minimum of three (3) written quotes shall be invited	\$50,001 to \$100,000	Chief Executive Officer (CEO)
Tendering	An open invitation is issued inviting suppliers to submit a tender	Greater than \$100,000	Council resolution required

- Purchasing must be within the approved budget, where funds have already been allocated. Any request to purchase outside of the approved budget must be made in accordance with Council's Budget Reporting & Amendment Policy PO142;
- Council Form SF125 Purchasing Exemptions Authority must be completed in its entirety and signed by all parties for exemptions to be valid in accordance with the table above;
- All requests for exemption approval must be recorded in the RO50 Purchasing Exemptions Approval Register, regardless of whether or not the exemption is approved;
- The Director Corporate and Community Services is responsible for the RO50 Purchasing Exemptions Approval Register and will provide a quarterly report to the Corporate Management Team;
- Only Employees with appropriate financial delegations can authorise purchase of goods and services on behalf of Council;
- Purchases must not be split to bring the value of the purchase within a lower purchase value for any purpose.

4.2.2. Direct Purchase

- Purchases are from a single source, without first obtaining quotes or tenders, however random 'market testing' is encouraged to determine value for money;
- Suitable for low value, low risk goods and services, and where the supplier already has a successful service history with Council;
- Payment options available include corporate purchase cards, fuel cards and on account with Purchase Order.

4.2.3. Request for Quotations (RFQ)

- Minimum of two (2) or three (3) written quotations (email acceptable) shall be sought for goods and services;
- If the minimum number of quotations cannot be obtained for whatever reason, an exemption must be sought in accordance with the requirements of clause 4.2.1 of this policy;
- Exemptions obtained must be referenced on the relevant Purchase Order raised and registered in Council's Electronic Document Records Management System (EDRMS);
- Suitable for low value, low risk, largely price-based purchases with defined scope and known suppliers;
- Council Procedure PR137 Evaluating Tenders and Expressions of Interest should be used in evaluating more complex Quotations.

4.2.4. Request for Tenders (RFT)

- A formal open tender process must be used for goods and services with a value (as determined under section 4.2.1 of this Policy) of greater than \$100,000 (GST exclusive);
- All tenders will be undertaken in accordance with Council Procedures PR135 Electronic Tendering and PR137 Evaluating Tenders and Expressions of Interest;
- Tenders can only be accepted via a Council resolution.

4.2.5. Panel Contracts and Approved Suppliers

- A panel consisting of a select group of suppliers – once Council has completed its appointment of such suppliers in accordance with this Policy and can include either:
 - A standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
 - The prequalification of certain suppliers (on Council's Approved Supplier Register) who may or may not be engaged on terms to be agreed.
 - Prequalification will be achieved by meeting associated obligations including but not limited to:
 - Legislative requirements;
 - WHS requirements;
 - WorkCover registration requirements;
 - Public liability Insurance requirements;
 - Other insurance requirements (i.e. Professional indemnity, contract works, document insurance);
 - Risk management requirements;
 - Participating in Council induction;

- Meeting appropriate qualification and licence requirements before a contract can be entered into or any supply/work commences.
- Once a panel has been established, goods and services can be directly purchased from suppliers on the panel or Approved Suppliers in consideration of 4.2.1;
- Quotations must be requested from all suppliers who are part of the relevant panel being utilised by employees.

4.2.6. Strategic Alliances

Employees may also purchase goods or services, in accordance with section 4.2.1 of this policy without the need to go to tender, from suppliers where contract arrangements have already been established and administered by other organisations including but not limited to:

- Local Government Association of SA (LGA SA);
- Local Government Association Procurement (LGAP);
- Local Government Risk Services (LGRS) associated insurance; schemes
- Legatus (former Central Local Government Region);
- Procurement Australia;
- Australian State Government contracts;
- Australian Federal Government contracts;
- Purchasing group of which Council is a member;
- Any other joint venture, partnership, agreement, contract or strategic alliance entered into with any other South Australian Council.

Quotations as required in section 4.2.1 of this policy must be obtained from suppliers who are part of the strategic alliance contract being utilised to ensure the delivery of value for money outcomes.

Council may also enter collaborative and subsidiary arrangements with other Councils. All such proposals need to be considered and approved by Council prior to their commencement.

When utilising this section to purchase goods or services employees must ensure Purchasing and Procurement Principles in section 4.1 of this Policy are adhered to.

4.3. Contracts/Agreements

Council purchases goods and services using various types of contracts/agreements based on the template documents developed for LGAP, specifically for SA Council requirements.

Appropriate contracts/agreements must be put in place with all suppliers as detailed in the table below, utilising standard Council templates, prior to

supply/work commencing. These contract/agreements set out exactly what Council and the supplier expect from each other and:

- Formalise obligations and rights
- Control and allocate risk
- Secure the supply of goods and services
- Specify how exceptions will be handled

All executed contracts/agreements must be registered in Council's EDRMS and details recorded in the Contracts Register (CM9# 17/29590).

Purchase Method	Specific Requirements	Contract/ Agreement Type	Authority to Approve Exemptions
Direct purchase	Purchase from a single supplier up to \$10,000	Purchase order for goods and services	N/A
Quotation	Purchase from a single supplier greater than \$10,000 up to and including \$100,000	Purchase order and Approved Contract/ Agreement for services (goods where possible)	N/A
Tender	Purchase from a single supplier greater than \$100,000	Purchase order and Approved Contract/ Agreement for goods and services	N/A

Official Council purchase orders must be issued for the purchase of goods and services, in accordance with Council's procedure PR027 Issue of Council Orders. Purchase orders must be raised and issued at the time of acquisition of goods and services i.e. prior to completion of the transaction and/or issue of a tax invoice for payment except where exempted in accordance with PR027.

Contracts/ agreements used must be based on the LGAP template, however, it is recognised that in some instances other templates may need to be used to address the complexities or peculiarities of the purchasing transaction. Other templates used must meet the minimum requirements of Council's Insurance policies, LGA SA requirements and comply with Council's policies and procedures.

4.4. Contracting for Services

Council will provide services to the community in the most effective and efficient manner possible, utilising an appropriate mixture of contractors and Council employees based on capability, the need for specialist short term skills and equipment against the need to maintain a strong skill base of Council employees in each circumstance.

4.5. Exemptions

4.5.1. General

In certain circumstances, Council may, by Council resolution, 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.

4.5.2. Emergency Purchases

In emergency situations deviation from this policy may be approved by the Chief Executive Officer (CEO) (or delegate). Purchases must be within the purchaser's financial delegation and be limited only to what is required to alleviate the emergency situation.

A written report providing details of the purchase, including purpose and rationale, must be prepared by the purchaser and provided to the CEO within fourteen days of the purchase occurring. The CEO (or delegate) will prepare a report to Council as deemed necessary.

4.5.3. Funding Agreements

In the case that a funding agreement specifies that Council must follow a prescribed tendering process which differs from the requirements under this policy the CEO may determine that the project funded under that agreement is exempt from this policy. The CEO (or delegate) will prepare a report to Council as deemed necessary.

5. DELEGATIONS

Council is able to delegate some of its purchasing powers and functions under the Local Government Act and accordingly, delegation has been made to the CEO. The CEO has then sub-delegated some of those powers and functions to certain Council Employees so that they can purchase goods or services, subject to pre-determined conditions/limitations, as part of their duties.

Only Employees with the appropriate delegated authority can authorise purchases, approve payments and sign contracts/ agreements.

Details of the delegated powers and functions are available within Council's Delegations Register R007, Policy PO084 Corporate Purchase Card and procedure PR027 Issue of Council Orders.

6. RECORDS

Section 49(2)(c) of the Act provides for the recording of reasons for entering into contracts other than those resulting from a tender process. The Council must record written reasons for utilising a specific procurement method in each activity and whether it uses a procurement method other than tendering.

Records relating to purchasing and procurement activities shall be maintained in accordance with Council's PO063 Records Management Policy including:

- Contract documents;
- Correspondence between the supplier and Council;
- Details of variation;
- Evidence of appropriate insurances;
- Invitations to tender;

- Letters to un/successful suppliers;
- Purchase orders;
- Risk assessments;
- Tender award documents;
- Tender documents;
- Tender evaluation;
- WHS documents;
- Written quotations.

7. CONFIDENTIALITY

Council will discuss and consider tenders in confidence to ensure that the commercial position of the suppliers is not prejudiced and that no other party can gain a commercial benefit by knowing the information.

Once the tender has been awarded the identity of a successful tenderer, the reasons why the successful tenderer was selected and the amount payable are no longer confidential and must be made publicly available.

Information provided between a supplier and Council will be treated as confidential to the extent provided by Law but may be subject to the provisions of the Freedom of Information Act.

8. PUBLIC CONSULTATION

Where procurement activities will significantly affect members of the public or their properties, Council may require that adequate information and the opportunity to contribute to the decision making process is made available to them in accordance with its PO057 Community Engagement Policy.

9. CONFLICT OF INTEREST

Where a procurement activity potentially creates a conflict of interest or a perceived conflict of interest, the relevant interest must be disclosed and managed in accordance with Council Policy PO014 Code of Conduct for Council Employees and the mandatory Code of Conduct for Council Members before proceeding.

10. RESPONSIBILITIES

10.1. Corporate Management Team (CMT) are responsible for:

- Meeting legislative duties for procurement
- Ensuring expenditure is within approved budgets
- Setting and monitoring objectives, targets and performance indicators for procurement
- Ensuring Managers/Supervisors are provided with adequate training to enable them to comply with legislative requirements and this policy

- Ensuring employees have been provided with adequate information, training, instruction and supervision to enable them to comply with legislative requirements and this policy
- Ensuring all persons with financial delegation(s) are competent persons
- Monitoring and reviewing the effectiveness of this policy
- Consulting with employees
- Directing/enforcing action as required

10.2. Managers and Supervisors are responsible for:

- Meeting legislative duties for procurement
- Ensuring expenditure is within the approved budget
- Ensuring that expenditure is within delegated limits or otherwise approved by a person with appropriate delegations
- Ensuring that only Approved and Competent Suppliers are utilised
- Ensuring appropriate, Council approved contracts/agreements are in place with all suppliers
- Supervising, monitoring and reviewing procurement activities undertaken by employees for whom they are responsible
- Ensuring appropriate records are created and retained
- Highlighting any matters of concern to the CMT
- Providing relevant reports and information to the CMT as required
- Ensuring that Employees have been provided with adequate information, training, instruction and supervision to enable them to comply with legislative requirements and this policy
- Ensuring all persons with financial delegation(s) are competent
- Consulting with employees
- Directing/enforcing action as required

10.3. All persons with financial delegations are responsible for:

- Legislative compliance
- Complying with the requirements of this policy
- Ensuring expenditure is within the approved budget
- Ensuring that expenditure is within delegation limits or otherwise approved by a person with appropriate delegation
- Using only Approved and Competent Suppliers
- Ensuring appropriate Council approved contracts/agreements are utilised
- Participating in consultation processes relating to this policy and providing comment/feedback when requested and within the specified timeframe

- Undertaking procurement in an ethical and impartial manner with the highest level of integrity
- Not engaging in any activity that would create a conflict between personal interests and the best interests of Council. Employees are bound by the Employee Code of Conduct.
- Participating in training as required

11. INTERNAL CONTROLS

This policy is subject to Council's Internal Control policy and processes and prudential requirements which are contained in policies PO156 Internal Financial Control and PO161 Prudential Management respectively.

12. POLICY AVAILABILITY

This policy is available for public inspection on Council's website and at any Council office.

Copies will also be provided to members of the community upon request and may be subject to a fee, pursuant to Council's Fees and Charges Register.

13. COMPLAINTS

Complaints about this policy can be made in writing to Council's Manager Financial Services. Complaints will be managed in accordance with Council's Complaints Policy PO147.

14. REVIEW

This policy will be reviewed every four (4) years and as deemed necessary in consideration of any changes to legislation and relevant standards, codes and guidelines. Elected Members and employees will have the opportunity to participate in the review process.

15. TRAINING

This policy will be explained to all employees during induction. Council will provide training to all persons required to undertake procurement and/or administer agreements for or on behalf of Council.

16. RELATED COUNCIL POLICIES AND DOCUMENTS

PO001 WHS & Return to Work Policy

PO006 Contractor Management Policy

PO007 Consultation and Communication Policy

PO014 Code of Conduct for Council Employees

PO015 Code of Practice for Access to Council and Committee Meetings and Documents

PO057 Community Engagement Policy

PO063 Records Management Policy

PO072 Sale and Disposal of Land & Other Assets Policy
PO084 Corporate Purchase Card Policy
PO089 Elected Member Facilities, Services and Expenses Policy
PO091 Risk Management Policy
PO138 Caretaker Policy
PO139 Treasury Management Policy
PO142 Budget Reporting & Amendment Policy
PO146 Disciplinary and Performance Management Policy
PO147 Complaints Policy
PO148 Fraud and Corruption Prevention Policy
PO150 Gifts and Benefits Policy
PO156 Internal Financial Control Policy
PO161 Prudential Management Policy
PR098 Risk Management Procedure
R007 Delegations Register
R050 Purchasing Exemptions Approval Register (CM9 # 16/28131)
R060 Register of Contracts (CM9 # 17/29590)
R064 Contractor Register
PFC014 Process for Managing Complaints and Breaches under the Employee Code of Conduct
PFC123 Process for Managing Complaints and Breaches under the Code of Conduct for Elected Members
SF125 Purchasing Exceptions Authority Form

17. REFERENCES AND LEGISLATION

Competition and Consumer Act 2010
Competition Policy Reform (South Australia) Act 1996
Criminal Law Consolidation Act 1935
Environmental Protection Act 1993
Fair Trading Act 1987
Freedom of Information Act 1991
ICAC Act 2012
Local Government Act 1999
Local Government Regulations
Local Government Elections Act 1999
Work Health and Safety Act 2012

Code of Conduct for Council Members
Code of Conduct for Council Employees
LGA Procurement Policy Model Template
LGA Procurement Handbook
National Competition Policy (Commonwealth)
www.tenders.sa.gov.au

18. COUNCIL DELEGATION

Delegate:	Chief Executive Officer
Sub Delegate:	Refer PO084 & PR027

19. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Purchase of Goods & Services Policy	PO058	07/04/2003	08/06/2010
Tender and Quotation Policy	PO080	07/04/2003	08/06/2010
Purchasing and Procurement Policy	PO058	21/01/2015	14/12/2016
Purchasing and Procurement Policy	PO058	14/12/2016	29/08/2019
Purchasing and Procurement Policy	PO058	11/09/2019	

Definitions**ATTACHMENT 1**

Approved Supplier	A supplier who has agreed and demonstrated the ability to meet the supply conditions set by Council for a stated period
Competent Supplier	An Approved supplier who has acquired through training, qualification or experience the knowledge and skills to carry out a task
Competent Person	A person who has acquired through training, qualification or experience the knowledge and skills to carry out a task
Contract/Agreement	A legally binding agreement between two or more parties, enforceable by law
Contract Owner	The person determined by the Corporate Management Team, responsible for a contract/agreement with a supplier, as having responsibility for the direct management of a contract/agreement between Council and a supplier. The contract owner may be any officer of Council.
Emergency	<p>Any event that arises internally or from external sources, which may adversely affect persons, assets or the community generally, and which requires an immediate response and includes:</p> <ul style="list-style-type: none">• Activation of the Business Continuity Plan• Activation of emergency procedures• Genuine concerns for safety• Avoiding major expense• Genuine concerns about significant asset damage• Security risks• Genuine concerns for breach of statutory obligations
Employee	Any person who is employed by Council, including volunteers, apprentice or trainee and person undertaking work experience.
Open tender	Tenders invited by public advertisement via electronic release and/or print media.
Probity	Strong moral principles; honesty and decency
Procurement	The entire process of purchasing goods and/ or services from planning through the delivery of services and final contract completion.
Tender	A proposal, bid or offer submitted in response to request for tender
Value for money	The best outcome achievable when taking into account all costs and benefits in respect of goods/services over their lifespan.
Whole of life cost	The total net cost of acquiring goods/services including the costs of initial purchasing, operating and maintenance, disposal and termination.
Workplace	<p>A workplace is a place where work is carried out for/on behalf of Council and Includes:</p> <ul style="list-style-type: none">(a) any place where an employee goes, or is likely to be, while at work(b) a vehicle, vessel, aircraft or other mobile structure(c) any waters(d) any installation on land, on the bed of any waters or floating on any waters