

CONTRACTS AND TENDERING POLICY

ORIGIN/AUTHORITY

Local Government Act 1993 (ss. 481-490)

Local Government Finance Standards 1994

Local Government (Community Government Areas) Finance Standard 2004 (Sections 14-17)

OBJECTIVES

This policy provides a framework for undertaking any contract or tendering activities, guided by the following principles set out in Section 481 of the *Local Government Act 1993*.

- (a) open and effective competition;
- (b) value for money;
- (c) enhancement of the capabilities of local business and industry;
- (d) environmental protection; and
- (e) ethical behaviour and fair dealing.

POLICY STATEMENT

Council is committed to adopting processes and procedures for contracts and tendering that will ensure transparency and accountability.

PROCEDURES

1. Entering into a Contract

Any contract made, varied or discharged by Council must be done either:

- (a) under the common seal of the Council; or
- (b) by a delegate under section 483 of the *Local Government Act 1993*.

1.1 Contract under Delegation

- (a) A contract by delegation can only take place if the spending relating to the making, varying or discharging of the contract:
 - has been provided for in an approved budget for the financial year in which the contract is made, varied or discharged;
 - if spending is incurred before the adoption of the budget by council, the spending must be:-
 - (i) within the limits stated in the resolution of council delegating the power under which the contract is made varied or discharged and;
 - (ii) provided for in the appropriate budget for the year.
 - the contract has been entered into because of genuine emergency or hardship.
- (b) Before any contract is made, varied or discharged the delegate must have the appropriate financial delegation and must ensure if it is required by another law for:
 - (a) an approval, consent or permission to be obtained; or
 - (b) a procedure to be complied with;
 - (c) the delegate has the appropriate level of financial delegation.

2. When Tenders are Required

Before making a contract for the supply of goods or services, or the carrying out of work involving a cost of more than \$100,000, the Council will invite tenders through:-

- (a) placing an advertisement in the local newspaper circulating in the local government area;
- (b) placing an advertisement in other newspapers if the scope of work to be carried out or goods and services required can not be obtained from within the local government area

and;
(c) allowing at least 21 days from the day of the advertisement for the submission of tenders.

3. When Quotations are Required

Before making a contract for the supply of goods and services or carrying out of work involving a cost between \$10,000 and \$100,000 or if another range of amounts are prescribed by regulation, the Council's purchasing officer must: -

- invite written quotations from at least 3 persons who can meet the requirements of council at competitive prices.

4. Exceptions to the requirement to seek tenders or quotations

Council is exempt from the requirement to seek tenders or quotations if:

- (a) under a standing offer or a preferred supplier arrangement;
- or
- (b) with a supplier from a register of pre-qualified supplier;
- (c) under an LGA arrangement; or
- (d) it resolves that it is satisfied that there is only 1 supplier reasonably available to it; or
- (e) it resolves that a genuine emergency exists; or
- (f) it resolves to obtain second-hand goods; or
- (g) it resolves to purchase goods at an auction; or
- (h) the contract is made with or under an arrangement with or

made by:-

- the State, a government entity or another local government entity; or
- another Australian government, an entity of another Australian government or local government of another State or a Territory; or
- (i) it resolves that it is satisfied that the services to be supplied are of such a specialized nature that it would be impractical or disadvantageous to the Council to invite tenders or quotations; or
- (j) the contract is made with a person listed on council's panel of suitable providers.

5. Changes to Tenders

5.1 Council may make changes to tenders if:-

- (a) tenders were invited for the contract; and
- (b) the invitation to tender states that the council might later invite all tenderers to change their tenders.

5.2 Council may invite all the persons who have submitted a tender to change their tender to take account of a change in the tender specifications before a decision is made on the tenders.

6. Acceptance of tender or quotation

6.1 (1) Council will accept a tender or quotation most advantageous to it;

(2) Council will have regard to the objectives of this policy when deciding on which tender or quotation is the most advantageous.

6.2 Council may however decide not to accept any tender or quotation available to it.

7. Preconditions for establishing a panel of suitable providers, standing offer or preferred supplier arrangement or register of pre-qualified suppliers

7.1 Panel of suitable providers:-

The panel will be compiled by:

- (i) inviting expressions of interest from persons to be included on the panel in the way provided for inviting tenders as set out under section 2 of this policy; and
- (ii) the objectives of this policy must be used as the basis when selecting persons to provide the service.

7.2 Standing offer or preferred supplier arrangement can only be established if:-

- (i) supply of good or service is needed in large volumes or frequently; and
- (ii) through doing so the Council can obtain better value; and
- (iii) the goods or services can be stated clearly in a way well understood within the industry.

7.3 Register of pre-qualified suppliers can only be established if:-

- (i) preparation and evaluation of invitations each time the goods or services would be costly; or
- (ii) the capability or financial capacity of the supplier is critical; or
- (iii) there are significant security considerations ; or
- (iv) a precondition of an offer to contract is compliance with defined standards; or
- (v) the ability of local business to supply the goods or services needed by the Council needs to be encouraged.

Definitions

1. **“LGA Arrangement”** - means an arrangement –
 - (a) entered into by:
 - (i) the Local Government Association; or
 - (ii) a company registered under the Corporations Act if the association is its only shareholder; and
 - (b) that would be a purchasing arrangement if entered into by a local government; and
 - (c) for which the procedure set out in its purchasing arrangements has been followed by the association or company as if it were a local government.

2. **“Preferred Supplier Arrangement”** for a local government means an arrangement by the local government with a supplier for the supply of goods or services under agreed pricing conditions for a stated price.

3. **“Pre-qualified Supplier”** for a local government means a supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

4. **“Purchasing Arrangement”** means-
 - (a) a standing offer arrangement; or
 - (b) a preferred supplier arrangement; or
 - (c) a register of pre-qualified suppliers.

5. **“Standing Offer Arrangement”** for a local government means an arrangement to which the local government is a party with a supplier for the supply of goods or services at a fixed price for a stated period.

ORIGINALLY ADOPTED:
CURRENT ADOPTION:
DUE FOR REVISION:

SEPTEMBER 2006
30 JUNE 2009
30 June 2014