



CIRCULAR HEAD COUNCIL

CODE FOR TENDERING AND CONTRACTS



Adopted by the Council 20 July 2006

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1. INTRODUCTION

The purpose of this Code for Tenders and Contracts (Code), is to provide a policy framework on best practice tendering and procurement methods in line with the legislative requirements of the *Local Government Act 1993* (the Act) and the *Local Government Regulations 2005* (Regulations).

With this Code Council aims to achieve the purchasing principles of:

- open and effective competition;
- value for money;
- enhancement of the capabilities of local business and industry;
- ethical behaviour and fair dealing; and
- commitment to environmental sustainability and protection.

The Act requires Council to adopt a code relating to tenders and contracts by 1 January 2006 and this Code is consistent with the Act and the Regulations and includes procedures and guidelines for any prescribed matter.

As a measure of accountability and transparency, the Council will:

- make a copy of this Code (and any amendments) available for public inspection at the public office during ordinary office hours; and
- make copies of this Code available for purchase at a reasonable charge; and
- publish a copy of this Code on Council's website.

The Act and Regulations require Council to invite tenders for any contract it intends to enter into for the supply or provision of goods or services valued at or above \$50 000 (excluding GST). In accordance with the Regulations, Council will invite tenders by one of the following means:

- (i) an open public tender process; (refer Sections 3.1 through to 3.12)
- (ii) a multiple-use register; or (refer Section 3.13)
- (iii) a multiple-stage tender. (refer Section 3.14)

There are circumstances in which Council is exempt from undertaking the above processes. These circumstances are described in Section 4.

For purchases under the \$100,000 threshold, Council, in accordance with the Regulations, has decided that a quotation process will be undertaken with respect to specified amounts. An exemption from undertaking a quotation process applies where the same circumstances exists for that of a tender described in Section 4 however this does not preclude the Council obtaining verbal or written quotations at his discretion in accordance with this Code.

2. DEFINITIONS

Code – refers to this Code for Tenders and Contracts which has been developed in accordance with the requirements of the Act and the Regulations.

Contractor - a person or organisation, external to the Council, engaged under a contract for service (other than as an employee) to provide specified services to a Council.

Contract - a contract is an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do, or abstain from doing, some act.

Expression of Interest (EOI) - May be used as a means of exploring the market or to pre-qualify businesses to reduce the cost of tendering by restricting the issue of formal tenders.

Local Business - all businesses operating in the Municipal Area, which have a permanent office or presence in the Municipal Area and employ workers from the Municipal Area.

Multiple-stage purchasing - a process which allows for a preliminary assessment of the market to be made in terms of the capabilities of potential suppliers and the goods and services that are available to satisfy the requirement, before a final purchasing stage is undertaken.

Procurement - the entire process by which resources are obtained by Council, including planning, design, standards determination, specification writing, selection of suppliers, financing, contract administration, disposals and other related functions.

Public Tender - a tender where a business that can meet the requirements of the Request for Tender has the opportunity to bid.

Purchasing - the acquisition of goods or services.

Purchasing Checklist – a document identifying the process used for obtaining verbal quotations up to the value of \$15,000, including an authorisation from the Delegated Officer to process the request.

Quotation - the bid submitted in response to a Request for Quotation from the Council.

Request for Quotation - either a verbal or written request for offers from businesses capable of providing a specified work, good or service.

Request for Tender - a document soliciting offers from businesses capable of providing a specified work, good or service. Requests for Tender are usually advertised.

Standing Tender – a tender from which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process.

Tender - a proposal, bid or offer that is submitted in response to a Request for Tender.

Tender Box – a box or cabinet used as the point of lodgement for tenders to ensure that the documentation is kept secure until the tender period closes.

Tender Register – a book specifying all tenders received. It is kept in the Safe.

Value for Money - achieving the desired outcomes at the best possible price.

Verbal Quotation - a verbal Request for Quotation.

Written Quotation - a written Request for Quotation.

3. PROCUREMENT PROCESS

3.1 Procurement overview - processes

The following procurement overview is provided to give a brief outline on the way in which Council procures routine goods and services:

- (i) plan the purchase (which includes the selection of the most appropriate purchasing method);
- (ii) prepare the relevant documents (eg quotation, tender or expression of interest);
- (iii) invite and receive offers;
- (iv) evaluate those offers;
- (v) advise the successful bidder and offer to debrief any unsuccessful bidders; and
- (vi) manage any contract that has been implemented as a result of the procurement.

3.2 Planning the Purchase

During the planning phase of a purchase where written quotations or tenders are to be requested the following steps may be taken by the Council:

- any relevant approval to undertake a purchase is obtained;
- an estimate of the cost of the good or service is undertaken and available Council funding of such a purchase is confirmed and an appropriate method of purchasing is chosen;
- the specification is defined and mandatory requirements are identified.
- the establishment of an evaluation committee (Tenders);
- the establishment of evaluation criteria and evaluation methodology (Tenders);
- the development of a risk assessment and management plan; and
- the commencement of a contract management plan.

There are three procurement thresholds that require different levels of involvement in planning and executing the purchase. The following table refers to the thresholds and summarises what purchasing method Council utilises based on the total dollar value of the purchase.

Procurement Value	Minimum Requirement
Between \$1,500 and \$15,000	Direct Purchase - Verbal Quotations Two verbal quotations should be invited (where possible), of which at least one will be sought from a local business (if available).
Between \$15,000 and \$99,999	Written quotations Where possible, three written quotations are to be invited, of which at least one will be sought from a local business (if available).
\$100,000 and greater (excluding GST)	Public Tender <ul style="list-style-type: none"> • Council will advertise each tender at a minimum in The Advocate newspaper. Other advertising may be utilised as required. • Each tender will be advertised on Council website.

Council will apply the above requirements to the purchase of all goods and services with the exception of the circumstances described under section 4 - Exemptions.

Nothing in this section precludes the Council from calling Public Tenders for procurement for a value less than \$100,000 excluding GST, such tenders are to be in accordance with this Code.

3.3 Purchasing Documentation

3.3.1 Verbal Quotations (for purchases between \$1,500 and \$15,000 excluding GST)

While no formal quotations are required for purchases between below \$15,000 excluding GST, two verbal quotations should be obtained. These quotations are to be documented on a 'Purchasing Checklist' attached to the office copy of the order.

3.3.2 Written Quotations (for purchases between \$15,000 and \$99,999 excluding GST)

The Request for Quotation (RFQ) is a document inviting offers from businesses to provide a specified good or service. An RFQ may be in letter form. Council's quotation documents will include all terms and conditions of quotation, together with a clear description of the goods or services (specifications) required, and the details of any applicable Council policies. The complexity of the documentation will depend upon the nature and value of the purchase.

3.3.3 Tenders (for purchases greater than \$100,000 excluding GST)

Council's Request for Tender (RFT) is a document inviting offers from businesses to provide specified goods or services. Council's Request for Tender documentation usually consists of four main parts as follows:

Conditions of Tender - The Conditions of Tender set out the terms under which Council will receive and evaluate tenders. The conditions will usually include:

- evaluation criteria and a brief outline of the evaluation methodology to be used;
- closing date, time and place of lodgement;
- Council contact details;
- pricing requirements (eg the price should exclude GST);
- details of the intended duration of the contract, including any extensions applicable to the contract;
- advice and details on the availability of any briefing sessions for prospective tenderers;
- details on how tenders are to be lodged to ensure that Tenders lodged through the post are brought to the attention of Council Officers and placed in the relevant Tender Box and not opened, for example, in an envelope marked "Confidential - Tender";
- advice on how and in what circumstances the purchasing documentation can be altered;
- advice on the treatment of late submissions;
- an indication if alternative bids will be considered;
- relevant Council policies and principles;
- entitlement of unsuccessful bidders to be debriefed; and
- information on the Council's complaints process.

Specification - The specification clearly and accurately describes the requirements of the goods or service being purchased. It is the basis of all offers and is the foundation for the contract.

The specification will usually include functional requirements, performance requirements and technical requirements.

Conditions of Contract - The Conditions of Contract contain the contractual terms defining the obligations and rights of the parties concerned. Generally, contracts are used for all purchases over \$50 000, or where there are material risks involved.

Tender Form - The Tender Form must be completed, signed and returned by the tenderer. It includes a declaration by the tenderer that: the tenderer agrees to the Conditions of Tender; the information provided in the tender is accurate and correct; and the person signing the form is duly authorised to do so.

When preparing tender documentation Council will ensure that specifications do not restrict competition, reflect bias to any brand, or act as a barrier to the consideration of any alternatives.

Where applicable, documentation such as tenders will be cleared by Council's legal advisers and the General Manager before being issued.

3.3.4 Minimum Requirements

It will be a minimum requirement of all quotations and tenders that the tenderer and quoter must be able to meet Council's applicable workplace health and safety, risk management and insurance requirements.

3.3.5 Tenderer Conduct

Tenderers must not:

- engage in any form of collusive tendering
- lobby Councillors or Council employees
- offer gifts or personal benefits to Councillors or Council employees as defined in the Staff Code of Conduct in the Staff (HRM) Manual and the Council Code of Conduct.

Those tenderers found to have acted in breach of this requirement will not be considered.

3.3.6 Contract Security (Deposit, Bonds and Guarantees)

Council Managers are responsible for ensuring security arrangements (deposits, bonds and guarantees) are in place for the tender, contract or expression of interest. This includes ensuring the security is in the name of the contracting party and that it relates to the relevant contract. Security is to be provided on or before the contractual documentation is signed. Original security documentation is to be lodged with the Security Register and copies of documentation are to be placed on the relevant contract file. Where there is a need to discharge security following the completion of a contract then the Manager is to obtain the original security documentation from the Security Register and forward correspondence to the contractor formally releasing the security.

3.3.7 Insurance Requirements

As part of the evaluation of tenders, expressions of interest and other contractual arrangements the Council needs to see confirmation of relevant insurance policies. The policies required are usually public liability insurance and/or professional indemnity insurance, works insurance, workers compensation insurance and, where applicable, comprehensive insurance.

Insurance requirements must be in place prior to completion of the contract with the Council.

A certificate of insurance should be obtained from the contracting party and this certificate will show the name of the insured person, what the insurance is for, the amount of the insurance and the date on which the policy will expire. The name of the contracting party on the contract must be the same as the name which appears on the insurance policy. Where possible \$10m public liability cover is to be obtained, and where possible, joint named insurance is to be arranged with contractors.

Council managers must have in place systems to monitor the currency of insurance policies. Managers must be alert to the expiry of policies and provide for standard letters to be sent to contractors requiring confirmation of insurance policies before the current insurance policy expires.

No contracts are to be entered into which adversely affect the Council's insurance obligations, for example, contracts requiring Council to fully indemnify third parties in the event of a claim arising out of a contract.

3.4 Inviting Offers

3.4.1 Verbal Quotations

When inviting verbal quotations the Council will provide each supplier with the same information and will give each supplier the same amount of time to prepare a quote; and seek at least one verbal quotation from a local business (if available/known).

3.4.2 Written Quotations

When inviting written quotations:

- where possible, the Council will seek at least three written quotations of which one quotation will be sought from a local business if available;
- in some cases, the Council may choose to advertise for a quotation if advantageous to do so;
- the Council will send the invitation to quote to identified businesses;
- the Council will issue the request for quotation documentation either by mail, facsimile or email;
- exemption from seeking quotations will only be granted by the General Manager in circumstances outlined below under Exemptions.

3.4.3 Tenders

When inviting tenders:

- Council will advertise as required under section 3.15;
- Council tender documentation will either be made available via mail, email, facsimile or electronically available from Council's website at www.circularhead.tas.gov.au (any electronic or online tendering process undertaken by Council will be in accordance with the requirements of the *Electronic Transactions Act 2000*);
- The Council will ensure that all potential suppliers are provided with identical information upon which to base tenders and are given equal opportunity to meet the requirements;
- The Council will ensure that sufficient time has been provided to allow bidders to prepare an adequate response. At a minimum tenders will be open for 14 days. However, this may increase dependant on whether the requirements are complex, or if it is likely that interested businesses may need to form partnerships/consortiums with other businesses in order to fulfil the tender requirements;
- The Council may conduct a Tender Briefing
- The Council will endeavour not to modify the evaluation criteria or methodology after the request for tender has been released. However if for any reason, there is a need to alter the tender documentation once it has been issued, an addendum will be sent to all businesses that have been issued with that documentation; and
- If it is necessary to extend the closing date of the tender the following will be done:
 - all businesses that have been issued with tender documentation will be advised in writing of the change in closing date; and
 - the new closing date will be advertised in all newspapers and websites where the original advertisement was placed.

3.5 Contact Officer

For the purposes of communication with all potential tenderers the Council is to nominate one Contact Officer for each purchasing activity and clearly specify their name and contact details

The Contact Officer will:

- be the sole point of communication with prospective tenderers and document any questions asked of them by prospective tenderers and any response given;
- where possible, request that questions from prospective tenderers be put in writing (email or facsimile will suffice). Any response from the Contact Officer will also be provided in writing; and
- where possible, limit the provision of information to the clarification of procedural issues.

Any additional information provided to a prospective tenderer is to be also provided to all other prospective tenderers who have requested or received tender documentation.

3.6 Receiving Offers

3.6.1 Verbal and Written Quotations

Any written or verbal quotation received prior to the closing time will be held in a secure location to maintain confidentiality and to protect the individuals involved from claims of unfair practices.

All quotations that the Council receives will be clearly marked with the time and date of receipt.

For written quotations, the Council will ensure that we are not providing an advantage to a bidder over other bidders in accepting any late quotations.

3.6.2 Tenders

The Council will provide a locked tender box at the designated tender lodgement location.

When opening Tenders the Council will ensure that tenders are:

- opened in the presence of a minimum of two Council Officers; and
- clearly identified and recorded in the Tender Register. The following details are to be recorded:
 - Name of person submitting the tender or expression of interest;
 - Amount of the tender or expression of interest; and
 - Amount of deposit (if required).

Two Council Officers are to initial each tender or Expression of interest received and initial the Tender Register book.

All amounts that have been provided as security for the tender or expression of interest are to be receipted. The receipt is to be attached to the relevant tender or expression of interest.

The Council will acknowledge receipt of Tenders in writing prior to evaluation however the tenderer is to be advised that such acknowledgement does not constitute acceptance of the tender or that the tender is complete or in compliance with the request for tender.

The Council will follow the procedures set out in the conditions of tender for any late tender submissions and by accepting a late tender will ensure that it is not providing an advantage to that bidder over other bidders.

3.7 Evaluating Offers

3.7.1 Verbal and Written Quotations

The Council when evaluating verbal and written quotations is to do so with the objective of identifying the offer that best meets Council's requirements and provides the best value for money. When evaluating quotations the following factors are to be taken into consideration:

- estimated life, disposal value and maintenance requirements and costs;
- price;
- compliance with quotation specifications;
- quality, delivery and service;
- the benefits of sourcing locally;
- the consequences, including possible risks, of entering into a contract where there is one supplier, or a limited number of suppliers, that can provide and maintain the particular product over its lifetime; and
- any relevant Council policies.

3.7.2 Tenders

Tenders will be evaluated in accordance with the evaluation criteria and methodology specified in the evaluation plan, which was developed prior to offers being invited. Council will not modify the evaluation criteria or methodology after the Request for Tender has been released unless all potential tenderers are advised of the change in writing.

Evaluation of Tenders is to be undertaken by an Evaluation Committee established by the Council. An Evaluation Committee is to consist of 3 members (where possible) including the relevant Manager and other Council Officers. The General Manager may engage persons who have expertise in the particular area of purchase to provide advice and assistance to an Evaluation Committee however that person does not have any voting or decision making role.

In evaluating tenders the Evaluation Committee is to undertake the following steps:

- *Evaluate compliance* - Screen all offers to ensure that they are complete and comply with all mandatory evaluation criteria. Offers which do not meet all mandatory criteria and are non-compliant may be excluded from further evaluation.
- *Clarify offers* - It may be necessary to seek clarification from a tenderer if an offer is unclear. Clarification does not mean that tenderers can revise their original offer. Any clarification sought should be documented.

- *Evaluate qualitative / non-cost criteria* - this stage involves an analysis of each offer against the non-cost or qualitative evaluation criteria and weightings specified in the evaluation plan (the supplier must demonstrate that they meet the evaluation criteria, not just assert it).
- *Shortlist offers* - This step is only used for complex purchases in order to eliminate offers that are clearly not competitive. However, during this process, eliminated offers are not yet totally rejected, and may be re-visited later in the evaluation process.
- *Requests for Tenderers to make a formal presentation* - If appropriate, and tenderers have been forewarned in the Conditions of Tender, tenderers may be requested to make a formal presentation to the Evaluation Committee, clarifying their tender and providing the opportunity for the committee to ask questions. Under these circumstances, the tenderer will be directed to not introduce new or revised information. All information, questions and answers will be recorded by the Council.
- *Calculate value for money and compare offers* - The aim of Council's comparative evaluation process is to determine which offer best meets all the requirements of the specification and offers the best value for money. The major factors which the Circular Head Council take into consideration when evaluating value for money are:
 - the quality of the proposed good or service (how well it meets the specified requirements);
 - risk, that is, the capacity of the tenderer to deliver the goods or services, as specified, on-time and on-budget.
- *Select preferred tenderer* – when selecting the offer that represents the best value for money for Council and where two or more firms are ranked equally following the value for money assessment, preference will be given to a local business over businesses outside the municipal area and we may give preference to a local business where the business tenders within 5% of an external tenderer and all other factors are consistent. In selecting a preferred tenderer for a high risk/high value or complex process, the Council may undertake a due diligence investigation to ensure that the tenderer has the capacity and stability to fulfil all of the requirements of the contract.
- *Write the evaluation report* - on completion of the evaluation process the Evaluation Committee will document the selection of a successful tenderer in an Evaluation Report to be submitted to the General Manager. An Evaluation Reports is to include a record of the evaluation method, the rationale used to select the preferred supplier, and whether it is recommended that negotiations should be undertaken, and on what basis.

3.8 Determination - Acceptance of Tenders and Quotations

The General Manager is delegated the power and function for the expenditure of funds relating to the purchase of goods and services over \$100,000 excluding GST including the acceptance of quotes as provided within Council's budget estimates.

On receipt of the Evaluation Report the General Manager may determine the preferred tenderer and accept the lowest or any other tender up to an amount of \$250,000 excluding GST for works, services, materials, goods, plant, vehicles and equipment. This is on the condition that the tender complies with all Statutory requirements and this Code and is within the cost of the project or item contained within the budget estimates approved by Council or unless otherwise authorised to do so by Council.

Nothing in this Code or delegations granted to the General Manager precludes the General Manager from referring any quotation or tender to the Council for determination and acceptance.

For tenders not approved under delegation or tenders or quotations referred to the Council the General Manager is to present a report to the Council providing a recommendation and including as Attachments to that Report a copy of the Evaluation Report, Tender Documentation and any other document deemed relevant by the General Manager.

3.9 Notification of Successful and Unsuccessful bidders

Once a preferred tenderer is selected and all relevant Council approvals to proceed with the purchase have been granted, the Council shall write and (in most cases) telephone the preferred tenderer to notify them that they have been successful. After the preferred tenderer has been notified, the Council will notify all unsuccessful bidders in writing of their non-selection.

Unsuccessful bidders may request a debriefing session.

3.10 Debriefing unsuccessful tenderers

The purpose of the debriefing session is to help unsuccessful tenderers submit more competitive bids in future by identifying ways in which the tenderer's offer could be improved.

A debriefing interview will be provided to any unsuccessful tenderer who requests one and at this interview the unsuccessful bidder will be briefed as to:

- how their offer performed with respect to the evaluation criteria; and
- strengths as well as weaknesses of their offer.

During this interview, the following will not happen:

- comparisons between the unsuccessful tenderer's offer and the winning, or any other, offer; or
- the debriefing interview being used to justify the selection of the successful tenderer.

The Council's debriefing team will include at least one member from the Tender Evaluation Committee. Proceedings at each debriefing interview will be documented including:

- who attended (from the Council and from the business concerned);
- the information provided to the unsuccessful tenderer;
- any issues arising; and
- the details of any information that was requested, but not disclosed due to commercial-in-confidence considerations.

Where a multiple-stage purchasing process is used (for example where Expressions of Interest are used to short-list tenderers) suppliers not short-listed may be offered a debriefing interview at the discretion of the Council, in a similar way to unsuccessful tenderers.

3.11 Contract Management

A contract defines the rights and obligations of both parties once the tender is awarded. A contract is established when an offer is made and accepted. A contract comprises all relevant information provided to and by the business which has made the successful offer and includes:

- the conditions of tender;
- the specifications, including any plans and other attachments;
- the successful offer; and
- the conditions of contract.

For complex or high value purchases it may be necessary for Council to enter into negotiations prior to finalising the contract in consultation with Council's legal advisers.

The purpose of these negotiations is to:

- test the understandings and assumptions made by tenderers in determining their costs;
- clarify and rectify any false assumptions; and
- achieve operational refinements and enhancements that may result in cost reductions.

The outcomes of these negotiations will be reflected in the final contract and once completed and agreed, the formal contract is then signed by both parties.

A formal contract management plan is not required for all contracts, but the Council may develop plans for contracts that involve large dollar amounts, complex technical requirements, or when the contract manager is responsible for managing a large number of contracts simultaneously.

3.12 Standing Contract

From time to time the Council may utilise a standing contract in which one or more tenderers are contracted through an open tender process to provide specified goods or services over a period of time without the need for a further tender process.

The way in which a standing contract is established is the same as for an open tender process where the specification and description of the tender describe the intent of the standing contract and the conditions of its use.

3.13 Multiple-use register

From time to time the Council may utilise a multiple-use register process to establish a 'Register of Suppliers' that Council has determined satisfy the conditions for participation in that register, and that Council intends to use more than once.

If it is determined that such a register will be established, the Council will invite expressions of interest from prospective applicants for inclusion on a register by publishing at least once in The Advocate and any other paper as determined by the General Manager, a notice specifying –

- a description of the goods and services, or categories thereof, for which the register may be used;
- the name and address of the council and other information necessary to contract the entity and obtain all relevant documents relating to the register; and

- any deadlines for submission of application for inclusion on the register.

The Council will ensure that applicants are provided with the following in order to make an application:

- details of the categories of goods or services required;
- the criteria for evaluating applications;
- the method of evaluating applications against the criteria; and
- the conditions for participation to be satisfied by suppliers and the methods that the Council will use to verify a supplier's satisfaction of the conditions;
- a reference to the council's Code for Tenders and Contracts.

The Council will advise all prospective tenderers of the results of their application including all categories for which they are registered and the reasons for rejection of inclusion on the register as soon as practicable.

When Council wishes to use the register, the Council will invite all successful applicants that are registered for the relevant category to tender for the provision of the required good or service.

Council will review any established register at least once every 2 years.

A service provider may apply for inclusion on a register of tenderers at any time, provided the perspective tenderer has not had a prior application rejected or is a new applicant.

The following table outlines the differences between a standing tender and a multiple-use register:

Standing Tender	Multiple-use register
<ul style="list-style-type: none"> • Outcome of a procurement process • Can purchase directly from a panellist • Panellists selected following evaluation • Size is set at conclusion of process • Indicative or set price • Operates for a finite period • Re-opens at conclusion of period 	<ul style="list-style-type: none"> • Part of a procurement process • Basis for select tendering • Conditions for participation stated • Cannot limit size • No pricing • Can operate indefinitely • Open continuously or annually

3.14 Multiple-stage tenders

From time to time the Council may utilise a multiple-stage tendering process to:

- gain market knowledge and clarify the capability of suppliers;
- shortlist qualified tenderers; and
- obtain industry input.

A multiple-stage purchasing process may be more costly and time-consuming for both suppliers and for Council, and as such we will usually only use them where:

- the best way to meet the requirement is unclear;
- it is considered appropriate to pre-qualify businesses and restrict the issue of formal tenders (to reduce the cost of tendering);

- benefits exist which cannot be obtained by researching the market through conventional means; and
- maximum flexibility is required throughout the procurement process.
- The multiple-stage processes that Council may use are as follows:
- *Expression of interest* - an expression of interest is generally used to shortlist potential suppliers before seeking detailed offers. Suppliers are shortlisted on their technical, managerial and financial capacity, reducing the cost of tendering by restricting the issue of formal tenders to those suppliers with demonstrated capacity.
- *Request for proposal* – may be used when a project or requirement has been defined, but where an innovative or flexible solution is sought.
- *Request for Tender* - may be used when a project requirement has been defined to solicit offers from businesses capable of providing a specified work, good or service.
- *Request for information* – may be used at the planning stage of a project to assist with defining the project. Council will not issue a request for information to identify or select suppliers.
- *Closed tender process* – may be used if the initial specification is well defined and an expression of interest or request for proposal has already been used to shortlist suppliers. Suppliers will be informed in advance that only those short-listed will be requested to tender.
- Council is mindful of the following aspects when conducting a multiple-stage tender process:
- the same mandatory requirements regarding advertising and seeking at least one bid from a local business, that apply to a public tender process;
- that a short-listed party can not be engaged without going through a more detailed second (tender) stage process unless approved by an absolute majority of Council; and
- when using a Request for Information, issues relating to intellectual property and copyright must be clarified prior to using the information provided to prepare the Request for Tender.

3.14.1 Process

The Council will invite expressions of interest, and use the list of suppliers who lodge an application as the basis for inviting potential suppliers to submit tenders and is to advertise the expressions of interest in accordance with the minimum advertising requirements in Section 3.15.

The Council will ensure that prospective tenderers are provided with the following in order to lodge an expression of interest:

- details of the goods or services required;
- the criteria for evaluating expressions of interest;
- the method of evaluating expressions of interest against the criteria;
- details of any further stages in the tender process; and
- a reference to the council's Code for Tenders and Contracts.

The Council will then send an invitation to tender to all of the suppliers that expressed an interest in providing the good or service required unless it has stated specifically in the notice that the council may limit the suppliers that it will invite to participate.

Provided that the notice requesting expressions of interest states specifically that Council may limit the suppliers Council will invite to participate and the relevant requirements and evaluation criteria have been specified in the notice or associated documentation, the Council in determining the suppliers that will be invited to tender may:

- in assessing the technical ability, assess the extent to which an application meets the technical performance specifications of the procurement; and
- limit the number of businesses that it invites to tender, based on its rating of applications, provided that the largest number of potential suppliers selected, is consistent with an efficient tender process.

The General Manager will:

- ensure that the evaluation criteria that is used to make a decision at the first stage of the process (expression of interest), is consistent with the criteria to be used for the second (tender) stage; and
- not directly engage a short-listed party without going through a more detailed second (tender) stage process unless approved by an absolute majority of Council.

3.15 Minimum Advertising Requirements

All Tenders, Standing Contracts and Multiple Stage Tenders are to be advertised by the Council advertising at least once in The Advocate newspaper or other paper as determined by the General Manager a notice requesting any interested supplier to submit a tender or an expression of its interest to supply the good or service required.

The notice is to specify:

- the nature of the goods or services the council requires;
- any identification details allocated to the contract;
- where the tender/expression of interest is to be lodged;
- the Contact Officer from whom more detailed information relating to the tender may be obtained;
- the period within which the tender/expression of interest is to be lodged.

4. EXEMPTIONS

The Regulations provide that Councils must publicly invite tenders for the purchase of goods and services with a value in excess of \$100,000 (excluding GST).

The Council is committed to encouraging open and effective competition between suppliers with the objective of obtaining value for money and enhancing opportunities for local business.

As per the *Local Government (General) Regulations No. 27*, Council may choose not to apply the public tender process specified under *Regulation No. 23*, or use a quotation process where the goods and services sought relate to:

- (a) an emergency if, in the opinion of the General Manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
- (b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- (c) a contract for goods or services supplied or provided by another Council, a single authority, a joint authority or the Local Government Association of Tasmania;
- (d) a contract for goods or services in respect of which the Council is exempted under another Act from the requirement to invite a tender;

- (e) a contract for goods or services that is entered into at public auction;
- (f) a contract for insurance entered into through a broker;
- (g) a contract arising when the Council is directed to acquire goods or services due to a claim made under a contract of insurance;
- (h) a contract for goods or services if the Council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of –
 - (i) extenuating circumstances; or
 - (ii) remoteness of the locality; or
 - (iii) the unavailability of competitive or reliable tenderers;
- (i) a contract of employment with a person as an employee of the Council.

Point (h) above may be applied for one or more of the following reasons:

- where it can be established that there is only one supplier of a particular product or service and there is no appropriate substitute available, or where alternative options are not viable or do not provide value for money;
- where the original product or service has been selected through an open tender process and the request for exemption relates to the proposed purchase of an upgrade or addition to the existing system, and there are limited supply options;
- the product is being trialled to assist in the evaluation of its performance prior to a large scale purchase for which open tenders will be called;
- to assist in the development of a new product in conjunction with a private sector business;
- where the cost to Council and to suppliers would outweigh the value for money benefits of calling public tenders;
- projects of genuine urgency and not covered by (a) above (eg, in the case of a natural disaster or similar emergency circumstances); or
- other exceptional circumstances, where conclusive justification of the request is provided.

5. COMPLAINTS PROCESS

Tasmanian Councils are provided with broad competency powers under the Act to carry out the role of providing services to their communities and the Act also includes accountability measures under which Councils can be held responsible to their communities for their actions and decisions.

The resolution of complaints against Council is a responsibility of Council and will be dealt with in accordance with the Customer Service Charter.

In the first instance, complainants are to seek resolution through the Manager in charge of the relevant purchasing/tender process. If relevant, complainants are encouraged to seek a debriefing, if they have not already done so.

If a complainant is not satisfied with the response provided by the relevant Council's manager in charge of the purchasing/tender process, the complainant is able to write to the General Manager providing copies of all correspondence and other relevant material. The General Manager will take whatever action is considered necessary to deal with the complaint.

6. CONTRACT RENEWALS AND EXTENSIONS

6.1 Contract Renewals

In most cases, where the goods or services being delivered under the contract are required on an ongoing basis, Council will undertake a new procurement process (tender/quotation) prior to the completion of the existing contract.

6.2 Contract extension

In some circumstances, it may be desirable for Council to extend an existing contract, rather than seek new tenders or quotations for the delivery of the goods or services.

Contracts will only be extended:

- by an absolute majority of Council;
- following a full evaluation of the performance of the current contractor; and
- where the principles of open and effective competition are protected.

As a general rule, Council will not extend contracts if:

- the original contract does not allow an extension;
- since the previous tender, the market has changed substantially; or
- the nature of the goods/services required has substantially changed.

7. DISPOSALS

Disposals are to be conducted so that the best return to Council is achieved. Disposal of land will be made in accordance with Division 1 of Part 12 of the Act.

7.1 Disposals less than \$30,000

Council will dispose of items with a disposal value of less than \$30,000 at the discretion of the General Manager.

7.2 Disposals greater than \$30,000

Council shall dispose of items with an estimated disposal value in excess of \$30,000 by way of tender, public auction, or trade-in.

8. OTHER CONSIDERATIONS

8.1 Local Business and Industry

Council promotes a policy of supporting local business in the first instance where the local business is able to supply goods and services which are equivalent value and standard to external sources

In practice this means that the Council will:

- actively seek bids from local business, particularly from those which have previously requested the opportunity to quote;
- use a local business in instances where the business provides a quotation or tender or equivalent costing, availability of supply and standard of service;
- aim to use a local business where the business quotes or tenders are within 5% of an external supplier and all other factors are constant;
- for purchases between \$1,500 and \$15,000, where possible and at the discretion of the General Manager, purchase from or seek at least one verbal quote from a local business;
- for purchases between \$15,000 and \$49 999, seek at least one written quote from a local business;

8.2 Buying ‘Australian Made’

Council will endeavour to support Australian Made products provided that:

- It is cost effective in terms of purchasing, maintenance and availability of supply.
- Any potential delays in servicing or obtaining spare parts will not unduly hinder Council’s service delivery.
- The quality of the product is sufficient for its intended use and life expectancy.

8.3 Environmental and Health and Safety Issues

Council is committed to environmental sustainability and protection. Due consideration will be given to the environmental costs or impacts of all procurement decisions, taking care to conserve resources, save energy, minimise waste and protect the environment and human health.

9. REPORTING

9.1 Annual Report

Council will publish in its Annual Report in relation to all contracts for the supply or provision of goods and services valued at or above \$50 000 (excluding GST), awarded or entered in the financial year, including extensions granted:

- a description of the contract;
- the period of the contract;
- the periods of any options for extending the contract;
- the value of any tender awarded or, if a tender was not required, the value of the contract ex. GST;
- the business name of the successful contractor; and
- the business address of the successful contractor.

Where an exemption has been granted from a tender process [refer Section 4 point (a) and (h)], the following details will be reported in Council’s Annual Report:

- a brief description of the reason for not inviting public tenders;

- a description of the goods or services acquired;
- the value of the goods or services acquired; and
- the name of the supplier.

9.2 Reporting to Council

The General Manager will provide Council with a quarterly report of any instance where a purchase of a good or service is made where a public tender or quotation process is not used where an exemption applies from the tender process [refer section 4].

10 CONFIDENTIALITY

Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.

11 COMMON USE CONTRACTS

Where the Department of Treasury and Finance has established whole-of-Government contracts for the supply of goods or services to agencies and other authorised organisations, Council may choose to utilise those whole-of-Government contracts