

Procurement and Contract Management Policy	
Type	Governance
GDS Category	Governance – Public
Responsible Officer	Director Corporate
Policy Adopted	May 2023
Review Period	4 yearly (within 12 months of council election)
Last Reviewed	December 2020 (now archived)
Next Review Due	May 2027
Policy Version Number	6
Applicable Legislation	<ul style="list-style-type: none"> • Local Government Act 1999 (SA) • Independent Commissioner Against Corruption (ICAC) Act 2012 (SA) • State Records Act 1997 (SA) • Freedom of Information Act 1991 • Local Government (Elections) Act 1999 – Caretaker Provision • Work Health & Safety Act 2012 • Competition and Consumer Act 2010 • National Competition Policy (Local Government) • Trades Practices Act 1974
Related Documents	<ul style="list-style-type: none"> • Procurement Procedure - Less than \$40,000 • Procurement Procedure - \$40,000 - \$250,000 • Procurement Procedure – Greater than \$250,000 • Disposal Policy • Financial Internal Control Policy • Register of Delegations Policy • WHS Contractor Management Policy • Prudential Management Policy • Corporate Credit Card Policy • Code of Conduct for Council Members, • Code of Conduct for Council Employees • Public Interest Disclosure Policy • Fraud, Corruption, Misconduct and Maladministration Prevention Policy • Caretaker Policy
Public Consultation Required	No
Purpose	This Policy clearly set out the requirements to be met by all Staff when procuring and/or contracting goods and services on behalf of the Whyalla City Council.



1. INTRODUCTION

The objective of the Policy is to achieve the principles set out in Section 49(a1) of the *Local Government Act 1999 (SA)*, being to develop and maintain procurement policies, practices and procedures that are directed towards:

- obtaining value for money in the expenditure of public money
- providing for ethical and fair treatment of Tenderers
- ensuring probity, accountability, and transparency in procurement operations

This Policy covers the whole procurement process from identification of the need to contract management and delivery.

Employees undertaking Procurement activities are subject to the Whyalla City Council's Code of Conduct.

2. SCOPE

This Policy applies to anyone working for, or on behalf of, the Council. This includes Elected Members, Council Officers, subcontractors and volunteers.

This Policy applies to all procurement and contract management activity associated with the acquisition of goods, services, and works on behalf of the Whyalla City Council.

This Policy does not apply to expenditure or revenue related to:

- non-procurement expenditure such as sponsorships, grants, funding arrangements, donations, and employment contracts
- the disposal of land and other assets owned by the Whyalla City Council
- the purchase of land by the Whyalla City Council

Additionally, this Policy does not apply to the goods, works and services outlined in Schedule 1.

All dollar figures in this Policy are GST exclusive unless otherwise stated.

3. POLICY STATEMENT

All procurement and contract management occurs in accordance with this Policy and supporting procedures and guidelines.

These procedures set the minimum requirements staff **must** meet when planning for and undertaking a procurement and managing a contract.

All staff **must** adhere to the processes outlined in these procedures.

This Policy should be read in conjunction with the Council's Prudential Management Policy and Risk Management Policy.

4. POLICY OBJECTIVE

The objective of this Policy is to ensure Procurement and Contract management activities

- represent value for money in the expenditure of public money
- achieve the best possible outcome for the Council and Community
- encourage healthy competition between participants
- result in the engagement of contractors with safe, ethical, socially inclusive, and environmentally responsible goods, works and services
- comply with legislative requirements
- minimise contract risks and disputes

5. PROCUREMENT KEY PRINCIPLES

To meet the objectives, all acquisitions **must** have regard to the procurement principles.

5.1. Open and Fair Competition

The Council encourages open and effective competition by providing for fair and reasonable access to opportunities to do business with Council. Council will be impartial, fair, independent, and open in all discussions and negotiations.

5.2. Value for Money

The Council will undertake efficient and effective procurement activities to ensure value in the expenditure of public money. Value for money shall consider financial factors (whole of life costs) and nonfinancial factors (including risk) associated with the procurement. Value for money shall consider whole of life costs and may not necessarily favour the lowest price.

5.3. Accountability, Transparency and Probity

The Council will demonstrate accountability in procurement by ensuring that decisions are documented, able to be explained and evidence provided that an independent third party can clearly see that a fair and reasonable process has been followed.

Council maintains the confidentiality of information provided by contractors during and after the procurement process.

Conflicts of Interest will be addressed in accordance with the Code of Conduct for Council Employees Policy, Code of Conduct for Elected Members Policy, and Section 120 of the Local Government Act 1999.

5.4. Local Participation

The Council is committed to maximising its ability to positively impact the local economy and community. Wherever possible, procurement is to be undertaken in a manner that will seek to create local employment opportunities and increase economic growth within the local area.

Additionally, Council is committed to maximising the skills development and employment opportunities available to young people in the city of Whyalla, by the Council, where deemed appropriate, promoting and preferencing suppliers who engage apprentices, trainees, and cadets in their work practices.

During the development of the Acquisition Plan and associated evaluation criteria for procurement above \$250,000, Council Officers **must** apply a fixed weighting of 20% to local content. In other circumstances, local prices of up to 15% above the best non-local price will be considered.

5.5. Environmental and Social Considerations

The Council maintains a commitment to environmental sustainability and pursue social outcomes through procurement and contracting activities.

Council will seek to achieve positive environmental outcomes from procurement by:

- adopting purchasing practices which conserve natural resources.
- aligning the Council's procurement activities with principles of ecological sustainability
- purchasing recycled and environmentally preferred products where possible
- integrating relevant principles of waste minimisation and energy
- fostering the development of products and services which have a low environmental impact.

Council is committed to supporting Aboriginal and Torres Strait Islander businesses and promoting the employment of Aboriginal and Torres Strait Islander people, by:

- supporting procurement from Aboriginal and Torres Strait Islander owned businesses.
- investigating Supply Nation membership
- encouraging Aboriginal and Torres Strait Islander business inclusion on Prequalified Supplier Register

5.6. Procurement and Contract Risk Management

Council Officers will ensure that appropriate risk management methods are applied in the procurement process and subsequent contract. Officers will seek to manage, and mitigate potential financial, procurement and contractual risks throughout the project.

Risks will be managed in accordance with the Council's Risk Management Framework.

5.7. Health and Safety

Council Officers will only consider contractors who have appropriate systems to manage Work Health and Safety or who can demonstrate a capability to establish adequate systems or processes as outlined in the Work Health and Safety Act 2012.

6. PROCUREMENT

6.1. Estimating the Value of a Procurement

The estimated value of a procurement is to be determined by reference to the budget required by the Council to meet the estimated total value of any expenditure commitments that may result from the proposed procurement exercise, and is GST exclusive. This includes the total value of any contract extension and other options that may be included.

Procurements cannot be divided into separate procurements for the purpose of avoiding any value thresholds or delegations.

6.2. Planning and Purchase Approvals

Council Officers will prepare an Acquisition Plan for any purchases with an estimated value greater than \$40,000.

An Acquisition Plan **must** be approved by

- Manager (Level 3) up to and including \$100,000.
- Director (Level 2) \$100,001 and above

Except where an exemption is being sought. In this instance an Acquisition Plan **must** be approved by

- Director (Level 2) up to and including \$100,000.
- Chief Executive Officer \$100,001 and above

This approval **must** be obtained prior to seeking quotes.

Prior to awarding a contract, Council Officers **must** complete a Purchase Recommendation Report. The Report **must** be approved by an Officer with the appropriate Financial Authority outlined in the Financial Limit of Authority.

6.3. Procurement Thresholds

Council Officers **must** seek the minimum number of quotes based on the estimated value of the procurement excluding GST. If the value of the procurement is within 5% of the nearest threshold, then the greater threshold requirements **must** be adhered to.

The procurement value thresholds are (ex. GST):

Estimated Value	Quotes	Market Engagement	Method
Up to \$10,000	1 quote	Direct quote	Verbal or written
\$10,001 to \$40,000	2 quotes	Multiple quotes	Written

\$40,001 to \$250,000	3 quotes	Selective Engagement: <ul style="list-style-type: none"> • Request for Quote (RFQ) • Request for Tender (RFT) 	Email
Above \$250,000	Open market	Open Tender: <ul style="list-style-type: none"> • Request for Quote (RFQ) - Goods Only (low risk) • Request for Tender (RFT) • Expression of Interest (EOI) 	SA Tenders and Contracts Website

A minimum of one quote **must** be sought from a local supplier if the goods, services, or works are available locally.

Where the procurement is for goods estimated above \$250,000 and is deemed low risk and routine in nature to the Council, a Director can approve a selective engagement, choose to only seek 3 quotes. This applies for the purchase of goods only.

Where there is limited knowledge of the market or it would be beneficial to the Council, additional quotes should be sought.

6.4. Exemption to Minimum Quotes

An exemption to the minimum quotes **must** only be considered in limited circumstances. Council Officers **must** not approach less than the minimum number of suppliers required by this Policy except in instances that the rationale meets the circumstances outlined in Schedule 2.

The reason to not seek the minimum quotes **must** be documented in the Acquisition Plan and authorised prior to seeking a quote in accordance with 6.2 Planning and Purchase Approvals.

Exemptions which have been approved are to be recorded and reported to the Audit Committee quarterly including the explanations given for departure from this Policy and how Council is receiving Value for Money in the purchase.

6.5. Strategic Alliances and Partnerships

This is where the council undertakes procurement through contract arrangements already established and administered by other organisations, including:

- LGA procurement contracts.
- A purchasing group of which the council is a legal party to contract access.
- Procurement Australia; and
- State government contracts.

Where deemed in the strategic interest of the Whyalla City Council, the Council may seek to collaborate with other councils in the region to increase its buying power and in pursuit of developing and increasing competitive local business. The Council may also use subsidiary arrangements with other councils. All such proposals need to be

considered and approved in line with the delegations outlined in the Financial Limit of Authority prior to entering into any contract.

6.6. Use Of Prequalified Suppliers

Prequalified suppliers are businesses or individuals who have been assessed as meeting minimum compliance for Work Health and Safety and insurance criteria for the provision of goods, works and/or services. These contractors are added to the list as and when required or requested.

7. CONTRACT MANAGEMENT

The Council will ensure that all contracts are managed to maximise outcomes and minimise risk. Contracts are required for all procurements over \$40,000 and will be executed as per Council's approved delegations.

Contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure Council receives value for money. All contracts greater than \$40,000 will have a suitably experienced Contract Manager allocated and will be responsible for the management of the contract.

Requirements for managing a contract including the need for a contract management or monitoring plan are determined with reference to the scope, risks, complexity, duration, and importance of the deliverables.

Contracts are managed in accordance with the Council's Contract Management Procedure.

Contractors undertaking work on Council sites will be managed in accordance with WHS Contractor Management Procedure.

8. PRUDENTIAL REQUIREMENTS

High value purchases may require a Prudential Report prior to any procurement being undertaken. For further details refer to Council's Prudential Management Policy.

9. DELEGATIONS

Council makes delegations to the Chief Executive Officer, or any person acting in that role, under the Local Government Act 1999 including the power to expend Council's approved budgeted funds. This power is sub-delegated by the Chief Executive Officer to other Council Employees in accordance with the schedule published in Council's Delegations and Sub-delegations Register.

Only Council Employees with delegated authority under Section 137 of the Local Government Act 1999 can incur expenditure on behalf of the Council.

Any procurement outside Council's adopted budget requires a decision of Council to proceed except where allowed under the provisions of the Budget Management and Review Policy

10. CARETAKER POLICY

This policy is subject to the provisions of Section 91A of the Local Government (Elections) Act 1999 which requires Council to prepare and adopt a Caretaker Policy governing the conduct of the Council and its officers during the election period for a general election.

11. RECORDS

The Council will maintain records regarding the procurement process in accordance with legislative and corporate requirements.

12. REVIEW

Within twelve months of each new Council term, Council will review this policy. Following this initial review this policy will be reviewed as and when required.

13. FURTHER INFORMATION

This Policy will be available for inspection at Council's principal office during ordinary business hours and on Council's website www.whyalla.sa.gov.au

Copies will also be provided to interested members of the Community upon request, and upon payment of a fee in accordance with Council's Fees and Charges Register.

However, Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

14. AUTHORITY

Reviewed by Audit and Risk Committee 8 May 2023

Authorised by Council 15 May 2023

15. DEFINITIONS

Term	Definition
Acquisition Plan	A document that outlines the procurement methodology and sourcing strategy to be undertaken in a proposed procurement.
Asset	Any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an “asset”, and, for the purposes of this policy, includes Major Plant & Equipment and Minor Plant and equipment. It does not include financial investments or finance related activities, trees, or land.
Authorised Officer	A person who has delegated authority to sign an Acquisition Plan and or commit Council expenditure of funds on Council’s behalf, who is listed on the Financial Delegation document.
Contract	A ‘contract’ is a legally binding agreement (verbal or written) between two or more organisations, signed by the appropriate authorised persons, to undertake or perform a specific task or activity.
Contract Management	‘Contract Management’ is actively managing a contractual relationship between a supplier and the Council, including addressing risks and disputes that arise, to achieve the agreed contractual outcomes.
Contract Management Plan	A ‘contract management plan’ identifies key strategies, activities and tasks required for managing a contract including but not limited to roles and responsibilities, timelines, performance management and financial matters.
Contract Manager	The Contract Manager is the person responsible for managing the day-to-day activities of the contract and is the single point of contact for suppliers on all contract matters.
Council	The Corporation of the City of Whyalla (ABN 44 753 313 064).
Council Officers	Any employee, contractor, consultant, temporary member of staff working for, or on behalf of, the Council.
Direct Sourcing	Where there is only a single supplier of Goods, Works or Services and warrant the involvement of only one potential supplier.
Elected Members	The elected members of the Council.
Goods and Services	Goods, services, works and/or property as it would apply in the relevant section of the Policy.
GST	The goods and services tax as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth).
Land	Includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on land.

Local Supplier	A supplier which is beneficially owned by persons who are residents or ratepayers of the Whyalla Council, has its principal business within or nearby the Council area, or a business that substantially employs persons who are residents or ratepayers of the area.
Open Tender	Seeking tenders from the marketplace via an open invitation process, e.g. Advertisement on SA Tenders and Contracts Website.
Personnel	Employees, trainees, contractors, consultants, volunteers, Elected Members or any individual or organisation given permission to purchase on behalf of the Council.
Prequalified Contractor	Means a business or individual who has been assessed as meeting minimum compliance for Work Health and Safety and insurance criteria for the provision of goods, works and/or services.
Probity	A risk management approach to ensure that selection and decision-making processes will be found to be honest, fair, transparent, and defensible if scrutinised. A process conducted with regard to proper standards of probity will achieve both accountability and transparency and provide all parties to the procurement process with fair and equitable treatment.
Procurement	The whole process of acquisition of goods, works or services whether by tender, quote, expression of interest or any other similar process. The procurement continuum spans the whole life cycle from initial concept, contracting and Contract Management through to the end of a services contract, cessation of the supply of goods or the end of the useful life of an asset.
Purchase Order	An order for individual goods, works and/or services.
Quotes	Seeking a price and scope of goods works, or services from a supplier.
Selective	Seeking bids from a limited number of suppliers.

SCHEDULE 1: GOODS/WORKS/SERVICES EXEMPT FROM PROCUREMENT AND CONTRACT MANAGEMENT POLICY

The following purchases are exempt from the Procurement and Contract Management Policy and do not require a quotation and use of a Purchase Order for payment.

- Banking Services
- Committee Expenses
- Debt Collection
- Employee Assistance Program Costs
- Freight or Courier Services (although job number, cost centre, element type and signature are required on consignment note for Accounts Officers)
- Insurance Payments
- IT Software - Licence Renewals or Maintenance Renewals
- Lease & Rental Payments
- Legal Services
- Licence & Membership Fees and Traineeship Charges
- Postal Services
- Refunds or reimbursements of expenses
- Statutory Government Charges
- Subscriptions
- Taxi Fares
- Utilities (e.g. SA Water, Telstra, AGL, Origin Energy)
- Vehicle Registrations

The items on this schedule may change from time to time based on Council's operational requirements.

This information is provided as supplementary information to the Policy only and does not require endorsement by Council or its Committees as it is amended.

SCHEDULE 2: EXEMPTION FROM PROCUREMENT THRESHOLD

There may be emergencies or instances in which the specified quantity of quotes will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

Council Officers **must** not approach less than the minimum number of suppliers required to be approached except when there is a circumstance or justification meeting the following instances:

- Specialised Services / Proprietary Goods not available elsewhere
- Contractor or consultant has considerable background knowledge and experience or specialist expertise on that particular Council project or asset e.g. an extension of a previous project
- Urgency of work relating to statutory compliance, impact on service delivery or meeting critical deadlines
- Potential for significant public risk, including emergency situations threatening life and or property
- Ensuring that residents or occupants of Council owned buildings are not subject to undue discomfort or hardship due to breakdown of building facilities or equipment.

The reason for not seeking the minimum quotes **must** be documented in the Acquisition Plan and the process **must** follow the applicable procedure.

Exemptions which have been approved are to be recorded and reported to the Audit Committee quarterly including the explanations given for departure from this Policy and how Council is receiving Value for Money in the purchase.