



# **Procurement Policy**

**November 2009**

## **ABOUT THIS MANUAL**

This manual contains statements of legislation principle, policies and procedures related to the acquisition of goods, services and works by Council. It contains both standard and mandatory requirements and guidelines for officers of the Council. It establishes minimum standards and principles which are to be applied across the organisation in the procurement of goods, services and works.

It is the responsibility of all Managers and Supervisors to ensure that these policies and procedures are understood by all employees and that they are administered and applied uniformly in all instances involving procurement.

The Procurement Policy and Procedures Manual provides a framework for all competitive transactions. Whilst the procurement process will vary depending upon the value and nature of the goods, services or works being obtained, the consistent objective in the procurement process is to achieve value on behalf of Council and the community. Guidance and mandatory requirements in determining the relevant procurement processes are outlined in the Procurement Process Reference Table in the Procurement Policy.

Any proposed amendment to the Procedures contained in this manual must be submitted to the Contracts Unit Manager for approval by the Chief Executive Officer.

The Local Government Act 1989 Part 7 Section 5 Subsections 140 and 141 (substituted by No. 109/2003 S71) contain statutory obligations that are relevant to the purchasing function. Compliance with those provisions is mandatory and failure to do so by Council its servants or agents will constitute a breach of that Act and may incur penalties.

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## **DEFINITIONS USED IN THIS DOCUMENT**

### *Contract*

Any purchase or agreement to purchase goods or services imposes contract obligations upon the purchaser and provider under common law. All staff need to be aware of the potential for committing Council in any way. Delegations and authorisations have been established to determine who may commit Council to a contract (See Delegated Authority).

### *Contract Owner*

The officer with ultimate responsibility for the project. The contract owner normally has budget accountability and shall oversee the contract process in conjunction with the allocated Contract Manager.

### *Contract Manager*

The officer appointed to control the project and subsequent contract management.

### *Council*

The term Council refers to Central Goldfields Shire Council, its employees, servants and agents.

### *Delegated Authority*

The level of authority including financial delegations established for each role within the organisation. The procurement policy is consistent with the delegated financial authorities within Council.

### *Expression Of Interest (EOI)*

The process by which prospective respondents are given a high level description of the requirement (goods, service or works) and requested to register their interest in tendering. The E.O.I. is part of a staged tender process. The E.O.I. should focus on supplier capacity and market potential, and should not include pricing.

### *Formal Contract*

A formally binding agreement between a number of parties, incorporating Council's General Services Conditions. The contract includes a Form of Agreement executed by all parties. A formal contract shall generally be applied for all procurement above \$25,000, however discretion may be applied by Council's Procurement Manager.

### *Invoice*

A bill sent to the buyer for payment. It must reflect an official Council order number and detail the quantity, price and nature of the goods or services delivered.

### *Procurement Process*

The process used to solicit offers to supply goods, works or services. The procurement process includes Purchase Orders, Written Quotes, Public Tender and Expressions of Interest followed by Selective Tender.

### *Public Tendering*

Refers to use of paid advertisements seeking tenders from the open market. This may include an Expressions of Interest stage, later followed by a Selective Tendering process.

*Purchase Order*

The means of procurement of goods and services by an official commitment generated in Council's StraightBuy Purchasing system. A purchase order is generally raised for lower value (Less than \$5,000), less detailed forms of procurement. A purchase order is a legally binding document and Council's Terms and Conditions apply to all orders placed.

*Purchasing*

One of several available procurement processes. Purchasing generally refers to the issuing of a purchase order to obtain goods, works or services, most often without the use of a separate, formal contract. (Use may be made of a formal contract even though a public tendering process may not have been used.)

*Procurement Manager*

Appointed Officer responsible for the overseeing of the procurement process..

*Selective Tender*

Specific parties are invited to submit tenders after short listing from an open Expressions of Interest process.

*Specification*

Clear, complete and accurate statement of the description and technical requirements of a material, an item or a service. It may include the procedure to be followed to determine if the requirements are met. Specifications may be classified as prescriptive, functional, solution based and outcome based.

Example of a Tender Evaluation Criteria is as follows:

Tenders will be evaluated on the following criteria, but not limited to:

- Financial benefit to Council
- The ability to comply with the contract requirements
- Experience & Qualifications
- Regional Content
- Occupational Health & Safety
- Quality Assurance Status
- Australian & New Zealand Goods, Machinery or Materials

*Tender Evaluation Panel*

The Tender Panel is made up of the Chief Executive Officer, relevant Director, Contract Manager and Procurement Manager. The Panel may, at its discretion, refer tenders to Council for consideration.

## PROCUREMENT POLICY

### 1.1 PREAMBLE

Council is a substantial organisation and the volume of purchasing undertaken for the organisation is significant. It is important that Council buys well and efficiently administers and accounts for its purchases.

In all purchasing decisions, officers must consider a number of factors including best price, lowest cost of acquisition and possession, consistency of quality, environmental impact, continuity of supply, impact on the local economy, trading terms and low cost of administration.

There are at times potential conflicts within these objectives. Sound, professional judgement is required in purchasing decisions. Attachment 1 to this policy sets out principles to guide officers in making those decisions.

### 1.2 KEY PRINCIPLES

#### 1.2.1 *Lowest Total Cost of an Acceptable Solution*

Purchasing decisions should aim to achieve an acceptable solution at the lowest total cost.

Lowest total cost should be determined by considering all significant costs associated with the acquisition. The nominal purchase price is important but other considerations such as timing, delivery, storage, trading terms, warranty, and ease of administration should be considered if relevant. In the case of plant and equipment, whole of life costing should be used.

Whole of life costing means taking into account the initial purchase price, durability and the estimated cost to operate and maintain the item of plant over its expected life.

#### 1.2.2 *Competition and Local Economic Benefit*

Open and effective competition is important to obtaining the best possible outcomes from dealings with suppliers.

Competition implies pursuit of best value for money, the opportunity for potential suppliers to do business with Council, absence of bias or favouritism, accountability for results and transparency of process.

The extent to which competition may be available and appropriate will vary from case to case, depending upon such things as the number of potential suppliers and the costs and benefits of promoting competition.

All other factors being equal, Council may give preference to local economic benefit when sourcing products. When this criteria is nominated the benefit must be identifiable and reasonable. These benefits may take the form of:

- increased local employment
- contribution of funds to the local economy with identifiable benefits.

Local consideration may have regard to the local level of content in the procurement of goods, services and works. The application of local content shall have consideration of both:

- Best Value Principles of the Local Government Act 1989; and
- National Competition Policy (Trade Practices Act).

Specifications should identify local content opportunities and ensure they are nominated. Local content generally relates to the provision of Labour, Materials, Plant and Supervision.

### 1.2.3 *Environmental Impact*

Council is committed to achieving responsible environmental management. Council shall consider and evaluate relevant environmental factors in the procurement of goods and services.

Environmental considerations will have regard to the environmental sustainability of the project. Different goods and services have different levels of environmental impact (risk) and opportunity within them. In identifying environmental procurement priorities both factors need to be taken into account. In order to ensure comparability between competing suppliers and to ensure Council's intent is clear environmental requirements must be established in the order, scope of requirement or specification.

The specification should nominate specific environmental targets. Examples of these would include goods with defined energy consumption ratings, requirements for recycled materials to be included in building and construction works, and specifications for building design and construction.

Council is an active member of ECO-Buy and is committed to the governing principles of ECO-Buy. We will attempt to maintain current knowledge in this field. Guidance and information on environmentally responsible purchasing options will be available from the Procurement Manager. Given this market is dynamic and under development the Procurement Manager and the "Buying Officer" will share responsibility for identifying and sourcing such product in line with Council policy objectives.

### 1.2.4 *Probity and Transparency*

Council is committed to high levels of ethical standards in purchasing.

In every instance, decisions in purchasing must be based on value and benefit to Council and the community. Transparency in decision making is most formally met through written scope/specifications: written evaluations against these must be provided for accountability and record keeping.

Information given to prospective suppliers must be designed to inform and not to mislead. Commercially sensitive information, including bid prices and terms must be treated confidentially.

Officers must declare to their line Manager any potential or actual conflict of interest, including any situation where a supplier has an association or relationship with a Council Officer.

No purchases for private use are to be made using Council's orders or otherwise via Council unless specific written approval is obtained from the Chief Executive Officer.

Officers must not accept from suppliers gifts, gratuities, entertainment or other forms of personal favour, other than those of a token kind. Guidelines for acceptable token gifts, benefits or hospitality are set out in Code of Professional Conduct and reference must be made to that document.

1.2.5 *Conflict of Interest*

Council Staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have potential to conflict with their Council duties.

Council staff shall not participate in any action or matter associated with the arrangement of a contract (i.e. evaluation, negotiation, recommendation, or approval) where that person or any member of their immediate family has a significant interest, or holds a position of influence or power in a business undertaking tendering for work.

The onus is on the member of council staff involved being alert to and promptly declaring an actual or potential conflict of interest to the Council.

Council staff must declare to their Manager any potential or actual conflict of interest, including any situation where a supplier has an association or relationship with a Council Officer. Where an Officer has a potential or actual conflict of interest, they are required to complete a declaration statement. (See appendix 18 of the Procurement Procedures Manual for the Conflict of Interest Declaration Statement.)

1.2.6 *Recording and Internal Control*

It is vital for effective financial control and for reporting to Council that purchase transactions are processed and recorded accurately and on a timely basis. Failure to comply with specified procedures endangers the accuracy and timeliness of management reporting and may be subject to disciplinary action.

Internal Controls are necessary to ensure completeness, validity, accuracy, security and subsequent accountability.

Completeness - All purchase transactions must be properly processed on a timely basis.

Validity - All purchase transactions must be properly authorised and all delivered transactions must refer to goods actually received.

Accuracy - Purchase transactions must be recorded accurately, and allocated to the correct account.

Security - Physical security of records and confidentiality of commercial information must be maintained. Refer to Council's standard Terms and Conditions for suppliers regarding risk, title and insurance.

Subsequent Accountability - Recording must be such that there can be independent periodic checks to ensure accountability.

Internal controls include authorisation, segregation of duties, and support of third party documentation as well as periodic management review.

1.3 TENDER EVALUATION CRITERIA

Tenders are evaluated according to the criteria in order of priority and weighting:- e.g.

Financial Benefit to Council	%
Ability to Comply with Contract Requirements	%
Experience and Qualifications	%
Risk Management	%
Business Capacity	%
Financial Capacity	%

The criteria are listed and described in the tender documents as the criteria that would be used for tender evaluation purposes. The order is also the same as shown in the tender documents. The weighting is at the Tender Panel's discretion but the weighting must reflect the order of priority. No higher numbered criteria can be greater than the preceding criteria number (i.e. 2 must not have a higher rating than 1).

The specification or scope of requirements is the best opportunity to provide direction and clarity on the nature of Council's requirements. Care is needed to ensure specifications do not unnecessarily repeat or duplicate the criteria as this would distort the evaluation outcome. The specification will be sufficiently weighted to ensure the product received meets the required standard.

#### 1.4 ACCOUNTABILITY

##### 1.4.1 *Council and CEO Delegation*

Financial Authorities and Delegations are provided under the Council's Delegation to the CEO and CEO's Delegation to Officers. Managers are constrained by budgets and are held accountable through the normal process of reporting against budget. Authorisation of purchase requisitions must be within their approved delegated authority. Financial Delegations are approved by the CEO only.

Managers have some discretion to nominate those officers under their supervision who may initiate requisitions and Managers have responsibility to ensure that requisitions initiated by officers in their area of control are approved. They are also responsible to ensure that delegated officers have the knowledge and experience to carry out the delegated tasks effectively and efficiently. Managers will be held totally accountable for all spending in their area of control.

Each Manager must nominate a substitute to carry out his/her function under clause 3.2 in the event of predictable (eg. annual leave etc) and unpredictable (eg. Illness etc) absences and must notify the Procurement Manager in writing, details of nominated substitution each time a substitution takes place.

##### 1.4.2 *The Local Government Act and Regulations*

###### **Local Government Act 1989 - Act No. 11/1989**

###### **Clause 186. Restriction on power to enter into contracts**

Council is required by Section 186 of the Local Government Act to undertake a competitive market testing process before entering into contracts for the purchase of goods or services to the value of \$150,000 or for the carrying out of works to a value of \$200,000 or more. The Act imposes specific restrictions on Council in regard to entering contracts of a value of \$150,000 or more.

- (1) Before a Council enters into a contract for the purchase of goods or services to the value of \$150,000 or for the carrying out of works, to the value of \$200,000 (or such higher amount as may be fixed by Order in Council) or more, it must-
  - (a) give public notice of the purpose on the contract and invite tenders from any person wishing to undertake the contract; or
  - (b) give public notice of the purpose on the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project.
- (2) If a Council invites expressions of interest-
  - (a) it must register those expressions of interest; and
  - (b) when it is ready to enter into the contract, it must invite tenders from some or all of those who registered their interest in undertaking the contract (or the part of the project to which the contract relates)
- (3) The public notice, tenders and expressions of interest must be in the prescribed form (if any) and must contain any details that are prescribed.
- (4) Nothing in this section requires a Council to accept the lowest tender or to accept any tender.
- (5) This section does not apply if-

- (a) the Council resolves that the contract must be entered into because of an emergency; or
  - (b) the contract is entered into with a Council acting as the agent for a group of Councils and the Council has otherwise complied with this Act; or
  - (c) the contract is entered into in accordance with arrangements approved by the Minister for the purposes of this sub-section; or
  - (d) the contract is a type of contract that has been exempted from this section by the regulations.
- (6) Whenever practicable, a Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand.

**Clause 208 - Best Value Principles**

Council must comply with the Best Value Principles, specifically in this instance:

“208B (a) All services provided by a Council must meet the quality and cost standards required by Section 208D”  
and

“208C Factors that may be looked at in applying the Principles .....

- (b) an assessment of value for money in service delivery“

Further references within the Best Value Principles allow Council to consider other matters, including community expectations, opportunities for local employment growth or relations, potential environmental advantages.

Best Value Principles are relevant to all aspects of Council’s service provision and have been considered in developing this Policy and its procedures.

**Local Government (Finance and Reporting) Regulations 2004**

Part 4 - Annual Report, Division 1 - Report of Operations, Clause 11 - General information

“Without limiting the generality of regulation 10, the report of operations of a Council must to the extent applicable -

- (g) list the documents specified in Part 5 of the Local Government (General) Regulations 2004 and the places where those documents can be inspected or copies obtained in accordance with section 222 of the Act;”

**1.5 RISK MANAGEMENT**

All goods and services purchased by Council must be compliant with:

- The Occupational Health and Safety Act 2004;
- Dangerous Goods Act
- Equipment (Public Safety) Act 1997; and
- Associated Regulations and codes of practice

wherever applicable.

For advice, contact the Risk Management Officer.

**1.6 PROCEDURES**

The Procurement Policy and Procedures Manual includes the following procedures:

- Procedure 1 - Purchasing Process
- Procedure 2 - Public Tendering
- Procedure 3 - Contract Documentation, including awarding, and Administration

- Procedure 4 - Payment Methods
- Procedure 5 - Purchase Order Using Straight-Buy (On-Line Purchasing System)

Each procedure is a separate document and is to be read and used in conjunction with this policy.

## 1.7 PROCUREMENT PROCESS

A range of processes are available for obtaining goods, works, or services on behalf of Council. The choice of an appropriate process is governed in part by legislative requirements, risk management, commercial considerations in obtaining appropriate quality, price and value and the need for transparency and probity. Obtaining Best Value for Council and the local community is central to the choice of an appropriate procurement process.

Delegations and financial authorisations are consistent with the Procurement Reference Table included as an attachment to this Policy (See Attachment One). The value or price of the goods, works or services to be obtained is the initial consideration in determining the appropriate procurement process. The nature of the item(s) being obtained and the state of the supply market for that item are important additional considerations. The opportunity to develop the relevant market and to encourage competition which will then benefit Council and the local community must be actively considered.

The Procurement Reference Table outlines the minimum standard procurement process in each instance. The discretion to go beyond that minimum standard is available and will be exercised by the relevant Director or the Chief Executive Officer. Any departure from the policy which falls below the minimum standard must be endorsed by the Manager of Contracts. Approval by the Chief Executive Officer will be sought by the Manager of Contracts as considered necessary.

**Procurement Process Reference Table**

**ATTACHMENT ONE**

Price / Value of Goods / Service / Works	\$0 - \$2,000 (Inc. gst)	\$2,001 - \$4,999 (Inc. gst)	\$5,000 - \$29,999 (Inc. gst)	\$30,000 - \$59,999 (Inc. gst)	\$60,000 - \$150,000 (Inc. gst)	\$150,000+ (Inc. gst)
<b>Procurement Process</b>	Verbal quotes may be obtained.	Minimum of 3 verbal quotes	Minimum of 3 written quotes	Written Scope / Specification with a minimum of 3 written quotes	Public Tendering	Public Tendering
<b>Process Description</b>						
Minimum Process Requirements	<ul style="list-style-type: none"> <li>- Verbal quotes</li> <li>- Awareness of the reasonable market price for the item must be exercised either by the purchaser or by reference to the Procurement Manager.</li> <li>- Where approved suppliers to Council have been established, these are to be used. Departures from this must be approved by the Procurement Manager.</li> </ul>	<ul style="list-style-type: none"> <li>- At a minimum 3 verbal quotes unless:                             <ul style="list-style-type: none"> <li>a. otherwise approved by Procurement Manager</li> <li>b. approved competitive testing has occurred through a third party such as Strategic Purchasing.</li> </ul> </li> <li>- Where approved suppliers to Council have been established, these are to be used. Departures from this must be approved by the Procurement Manager.</li> </ul>	<ul style="list-style-type: none"> <li>- At a minimum 3 written quotes unless approved competitive testing has occurred through a third party such as Strategic Purchasing.</li> <li>- Must have documented justification for the selection of the supplier, recorded on the relevant Records File.</li> </ul>	<ul style="list-style-type: none"> <li>- At a minimum 3 written quotes</li> <li>- Written scope/specification of works at approval of Director</li> </ul> <p>Scope must include clear evaluation criteria</p>	<ul style="list-style-type: none"> <li>- Public tendering unless specifically authorised. Open or selective &amp;/or EOI</li> <li>- At a minimum 3 written quotes</li> <li>- Written scope/specification with Director approval</li> <li>- Scope must include clear evaluation criteria</li> <li>- Documented reasons and justification for decision</li> <li>- CEO or director prior approval will be determined by;                             <ul style="list-style-type: none"> <li>- urgency</li> <li>- lack of market capacity</li> <li>- if extension of existing contract (providing the total contract value does not exceed \$100k)</li> </ul> </li> </ul> <p>Tender Panel</p>	<ul style="list-style-type: none"> <li>- Public Tendering / EOI followed by selected tendering</li> <li>- Tender panel compulsory</li> <li>- Written specification approved by Director in consultation with Tender Panel Member</li> <li>- Specification will include standard evaluation criteria approved by Director in consultation with Tender Panel Member</li> <li>- Documented tender evaluation and recommendation must be prepared for approval by CEO</li> <li>- Council approval required \$150k+</li> <li>- CEO determines approval if dealt delegation</li> </ul>
Optional Process Requirements	Written quotes	Minimum of 3 written quotes	<ul style="list-style-type: none"> <li>a. Written Scope / Specification with a minimum of 3 written quotes</li> <li>b. Public Tendering</li> </ul>	<ul style="list-style-type: none"> <li>a. Public Tendering</li> <li>b. Expression of Interest and Selective Tender to follow</li> </ul>	Expression of Interest and Selective Tender to follow	Expression of Interest and Selective Tender to follow

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Price / Value of Goods / Service / Works	\$0 - \$2,000 (Inc. gst)	\$2,001 - \$4,999 (Inc. gst)	\$5,000 - \$29,999 (Inc. gst)	\$30,000 - \$59,999 (Inc. gst)	\$60,000 - \$150,000 (Inc. gst)	\$150,000+ (Inc. gst)
			c. Expression of Interest and Selective Tender to follow			
<b>Approval of Scope of Requirements or Specification:</b>	N/A	Officer	Approved by Officer within financial delegation	Approved by Director / Manager	Manager / Director	Manager / Director
<b>Public Notification (where applicable):</b>	N/A	N/A	N/A	Regional or State-wide	Regional or State-wide	National distribution (The Age)
<b>Responsibility for evaluation of comparative quotes, Expressions of Interest or Tender:</b>	Officer	Officer	Officer / Procurement Manager Written evaluation against scope / specification where used, is required.	Manager or Director Written evaluation against scope / specification is required.	Manager / Director Written evaluation against scope / specification is required.	Manager / Director Written evaluation against scope / specification is required.
<b>Purchase / Contract to be approved by:</b>	Officer within financial delegation	Officer within financial delegation	Manager or Director	Director	Chief Executive Officer	Chief Executive Officer

