

| PROCUREMENT POLICY                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| DOCUMENT REFERENCE NUMBER                   | 734805                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| RELATED POLICIES AND ASSOCIATED DOCUMENTS   | <p>Annual Business Plan and Budget<br/>           Budget Report &amp; Amendment Policy<br/>           Contractor Management Policy<br/>           Contractor Management Procedure<br/>           Council Election Policy<br/>           Financial Delegations – Management Guidelines<br/>           Internal Control Policy<br/>           Long Term Financial Plan<br/>           Procurement Delegations – Management Guidelines<br/>           Prudential Management Policy<br/>           Risk Management Policy<br/>           Strategic Plan</p>                                                                                                         |
| Related Documents                           | <p>Code of Conduct for Council Employees<br/>           Code of Conduct for Council Members<br/>           Corporate Credit Card Management Guideline<br/>           Delegation Register<br/>           Environmental Sustainability Policy<br/>           Financial Management Policy<br/>           Fraud and Corruption Prevention Policy<br/>           Internal Audit Policy<br/>           Internal Controls<br/>           National Competition Policy (Federal)</p>                                                                                                                                                                                     |
| RELEVANT DELEGATIONS                        | <p>Expenditure sub delegations, detailing authorised purchases and purchasing limits and the ability to enter an agreement are prescribed in Council's Delegations Register.</p> <p>This Policy also applies to any Committee of Council, or other delegated bodies with specific delegated authority to procure goods under its Terms of Reference. Where there is a conflict between the Terms of Reference and this Policy for the procurement of goods, this Policy will prevail.</p>                                                                                                                                                                       |
| LEGISLATION, CODES OF PRACTICE, REGULATIONS | <p>Includes but are not limited to:</p> <p>Competition and Consumer Act, 2010 (Cth)<br/>           Competition Policy Reform (South Australia) Act, 1996<br/>           Criminal Law Consolidation Act 1935<br/>           Disability Inclusion Act 2018<br/>           Environment Protection Act 1993<br/>           Freedom of Information Act, 1991(SA)<br/>           Independent Commissioner Against Corruption Act, 2012<br/>           Industry Advocate Act 2017<br/>           Local Government Act 1999 (SA)<br/>           Local Government (Elections) Act, 1999 – Caretaker Provision<br/>           Local Government (Financial Management)</p> |

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|                        | Regulations 2011<br>Modern Slavery Act 2018 (Cth)<br>Ombudsman Act, 1972<br>State Records Act 1997 Work Health and Safety Act<br>Regulations 2012 (SA)                                                                                                           |
| LINK TO STRATEGIC PLAN | Objective 5.1 - Effective                                                                                                                                                                                                                                        |
| COUNCIL RESOLUTION     | Item 654.2 – 10 June 2025                                                                                                                                                                                                                                        |
| LAST MODIFIED          | 22 October 2007, 1 November 2010<br><br>Item 250.1 – 15 October 2012<br><br>Item 111.6 – 11 May 2015<br><br>Item 141.3 - 13 August 2018<br><br>Item 49.1 – 10 March 2020                                                                                         |
| REVIEW DUE             | This Policy shall be reviewed by the Council/Policy Owner, in consultation with the relevant stakeholders, every two (2) years, including within six (6) months following a Council general election, or more frequently if legislation or Council needs change. |
| VERSION NUMBER         | 6                                                                                                                                                                                                                                                                |
| RESPONSIBLE MANAGER    | General Manager Infrastructure & Environment                                                                                                                                                                                                                     |

## POLICY STATEMENT

In compliance with Section 49 of the Local Government Act 1999 (Act) and best practice principles in procurement, this policy seeks to:

- define the methods by which Council can acquire goods and services.
- demonstrates probity, accountability and transparency of Council to all stakeholders.
- provide for ethical and fair treatment to all parties involved.
- enable consistency of approach in the application of procurement processes and
- ensure that the best possible outcome is achieved for Council by obtaining value in the expenditure of public money.

## OBJECTIVES

Council is committed to ensuring that all procurement activities deliver the following objectives:

- providing for fair, equitable, competitive and ethical behaviour in all procurement activities.
- obtaining value for money.
- ensuring probity, accountability and transparency.
- ensuring ethical behaviour and fair dealing through the procurement lifecycle.
- identification and management of risk.
- consideration of environmental sustainability principles.
- providing reasonable opportunity for local economic development and social inclusion and
- ensuring compliance with all relevant legislation.

## SCOPE

- This policy informs procurement activities associated with the acquisition of goods, works, services or consultants and covers all aspects of the procurement lifecycle including planning, risk management, tendering, purchasing, contracting and financial control.
- This policy applies to anyone who undertakes or is involved in procurement activities on behalf of Council. Compliance with the provision set out in this policy is mandatory unless expressly indicated otherwise.
- This policy does not cover the following:
  - Non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts.
  - Real property acquisitions of land, buildings or structures.
  - The disposal of land and other assets or
  - Procurement processes during the Council Caretaker period. These will be conducted under the requirements of Council's Caretaker Policy.

## PRINCIPLE

### 1. Principle 1 – Open and Fair Competition

Open and fair competition will be fostered and maintained by providing suppliers with appropriate access to Council's procurement opportunities. Council will ensure, where reasonably practicable, that:

- there is reasonable access for all suitable and competitive suppliers to the Council's business.
- where market circumstances limit competition, procurement activities recognise this, and associated methodology takes account of it and
- adequate, identical and timely information is provided to all suppliers to enable them to quote or tender.

### 2. Principle 2 – Value for Money

Value for money outcomes can be achieved through balanced consideration of financial and non-financial factors relevant to the procurement.

The following factors should be considered:

- the contribution to Council's long term plan and strategic direction.
- any relevant direct and indirect benefits to Council, both tangible and intangible.
- efficiency and effectiveness of the proposed procurement activity.
- the performance history, quality and scope of services and support of each prospective supplier and contractor.
- fit for purpose of the proposed goods, works or service.
- whole of life costs including acquiring, using, maintaining and disposal.
- Council's internal administration costs.
- technical compliance issues and costs.
- risk exposure and WHS considerations.
- prevailing market forces and trends.
- the value of any associated environmental benefits.
- Trade in values.
- local economic development and social inclusion; and
- other relevant matters identified in specific procurement process documentation.

### 3. Principle 3 – Probity, Accountability and Transparency

All procurement shall be undertaken in a manner that ensures:

- clearly established roles and responsibilities.
- appropriate record keeping and documentation.
- integrity through transparency of process and documentation of decisions made.
- adherence to relevant legislation, policy and procedure.
- identification and management of actual or perceived conflicts of interest and
- confidentiality of all commercial information.

A Probity Advisor and/or Auditor may be appointed to advise on, or review, the procurement activity.

#### 4. Principle 4 – Ethical Behaviour and Fair Dealing

All personnel involved in procurement activities are to:

- behave with impartiality, fairness, openness, integrity and professionalism.
- provide all suppliers with equal opportunity to supply to Council.
- establish clear and easy to understand documentation requirements, evaluation criteria and methodology.
- Provide consistent processes and constructive feedback on decisions upon request from suppliers and
- Ensure effective communication and provision of information to all suppliers.

#### 5. Principle 5 – Identification and Management of Risk

##### Risk Assessment

Council personnel will ensure that appropriate practices and procedures of internal control and risk management are in place for its procurement activities, including risk identification assessment and implementation of controls.

Procurement risk assessments will focus on assessing a potential supplier's capacity and capability to meet Council's requirements and identify any other factors which might result in works, goods or services not being successfully delivered.

##### Risk Based Approach to Market

Council's approach to market will be influenced by procurement risk assessments, with high risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

##### Work Health Safety

Council is committed to protecting health, safety and welfare. Council personnel will ensure that its procurement activities protect the health, safety and welfare of its workers, elected members, customers and community.

The Risk Assessment process should consider financial, supply, business, legal, management, reputations, probity, work health and safety, environmental, public safety, political and sensitive risks.

If the procurement of services, goods, materials or plant and equipment involves implications for work, health or safety, Council's Work Health & Safety & Risk Management Team should also be consulted prior to such procurement and where appropriate, procurement evaluation must ensure an appropriately skilled person confirms all WHS requirements.

Risks relating to the procurement process may include:

- Procurement of unsuitable product or service.
- Funding (e.g. internal & external, impact on long term financial plan).
- Probity failure.
- Inappropriate or inadequate specification.
- Negotiation of agreement terms/failure to agree to terms.
- Actual or perceived breach of probity/confidentiality.
- Lack of responses/limited supplier participation and
- Evaluation processes.

Risks relating to the engagement of the product/service provider may include:

- Supplier capability/capacity/availability.
- Agreement management/supervision.
- Price variations.
- Agreement disputes and
- Unauthorised change in scope of work.

## **6. Principle 6 – Environmental Sustainability**

Council promotes environmentally sustainability through its procurement activities and will consider the purchase of environmentally sustainable goods and services that satisfy the value for money criteria when all other financial and commercial considerations are equal.

This may include:

- adopting purchasing practices which conserve natural resources.
- aligning Council's procurement activities with principles of ecological sustainability.
- purchasing recycled and environmentally preferred products where possible.
- selecting products and services which have lower environmental impacts across their life cycle compared with competing products and services.
- integrating relevant principles of waste minimisation and conservation of energy .
- fostering the development of products and services which have a low environmental impact; and
- providing leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

## **7. Principle 7 – Encouragement of Competitive Local & Regional Business and Industry**

Council recognises the significant impact that its operations play in the local economy yet is mindful of its requirement to provide optimum value for money outcomes through its procurement activities and achieve budget expectations.

Council will endeavour to, at its discretion and to the full extent permitted by law, support local and regional businesses by:

- promoting to local and regional businesses opportunities to supply to the Council.
- giving preference to local and regional businesses when all other commercial considerations are equal.
- encouraging Aboriginal and Torres Strait suppliers to quote and tender.
- giving preference to Aboriginal and Torres Strait, local and regional businesses when all other commercial conditions are equal to ensure local employment opportunities and economic stability and/or growth and
- considering economic and social inclusion elements such as employment creation and training opportunities specifically within the Council area and region.

Council has committed through the Small Business Friendly Council Initiative Charter to enhance engagement between Councils and small businesses in South Australia and to simplify interactions between them to ensure a friendly and supportive environment for small business across the local community.

To meet requirements in relation to open and fair process, Council will select an approach to market method best suited to ensuring that the procurement activity delivers the most advantageous outcome for Council and our community.

Council may, having regard to its Procurement Principles, and any other factors considered relevant by the Council, at its absolute discretion determine appropriate procurement methods, the details of which are outlined within administrative processes supporting this Policy.

Procurements methods can be in the form via a Panel, Expression of Interest, Select or Open request.

The appropriate method of procurement will be determined by the CEO with reference to a number of factors including:

- value of the purchase.
- total cumulative spend.
- cost of an open market approach versus the value of the acquisition and the potential benefits.
- the particular circumstances of the procurement activity.
- the objectives of the procurement.
- the size of the market and the number of competent suppliers.
- Councils leverage in the market place.
- time constraints and
- a comprehensive assessment of the risks associated with the relevant activity and/or project, including the risk profile of the procurement and any risks associated with the preferred procurement method.

#### Total Cumulative Spend

Council Personnel is required to consider the Total Cumulative Spend with a supplier, or a number of suppliers providing similar goods or services, during the planning phase of their procurement. Council is precluded from splitting the value of the purchase to bring individual purchases into a lower Value of Purchase Threshold.

Cumulative Spend is identified as the estimated value of the total proposed purchase(s), including any agreement options, extensions and renewals (exclusive of GST), and potential cumulative value of the goods or services supplied over a period of time ie twelve (12) months against a supplier.

Cumulative Spend shall be monitored annually by Council to determine whether the appropriate procurement process has been undertaken and/or an alternative procurement method is required to be undertaken to comply with this policy.

#### Strategic Alliances

If the Council enters into a strategic alliances procurement process under this policy (Strategic Alliances) then there will be no requirement for the Council to approach the wider market or enter into a separate RFT/RFQ as an open tender process has already been undertaken. Council can meet its procurement requirements through contractual arrangements established and administered by other organisations that demonstrate adherence to the requirements of this policy. The use by the Council of Strategic Alliances means that the methods of procurement set out in this policy will be undertaken pursuant to and in accordance with the arrangements set out under the Strategic Alliances.

These include, but is not limited to:

- LGA Procurement (via VendorPanel).
- A purchasing group of which the Council is a member.
- Some State Government contracts.
- Ad hoc alliances created with other Local Government entities)

## AUTHORISED AGENTS

Council may, from time to time, and in accordance with Section 37(b) of the Local Government Act 1999 appoint Authorised Agents to enter into a contract on behalf of Council, which include expending Council's approved budgeted funds. Such authorisations will always be subject to provision of an approved budget allocation for the expense. The names, appointment dates and limitations of all Authorised Agents will be maintained in the Register of Authorised Persons.

## EXEMPTIONS FROM THIS POLICY

This Policy contains general guidelines to be followed by the Council in its procurement activities. There may be emergencies or procurements in which a tender process will not necessarily deliver the best outcome for Council, and other market approaches may be more appropriate.

The authority to provide an exemption from using the required method of procurement will be delegated to the **Chief Executive Officer or the relevant General Manager** in accordance with expenditure sub-delegations as prescribed in Council's Delegations Register. Reasons for any exemption to the procurement method must be documented and registered in Council's Electronic Document Records Management System.

The **Chief Executive Officer or the relevant General Manager**, in approving an exempt method, will consider the scale, scope and relative risk of the purchase, including the principles defined in this Policy.

A request for waiver of a competitive process should not be viewed as a mechanism to remove the need for rigorous procurement planning.

Situations where it may be appropriate to waive application of this policy are:

- There may be significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property; or
- The pressures of time are such that an open call is not feasible, such as where there has been an unanticipated Council or Government policy decision; or
- A supplier is evidenced to be a "sole supplier" in the market and effectively a niche specialist or monopoly, rendering the tender process redundant.
- A supplier, who has considerable background knowledge and experience or specialist expertise on that particular Council project or asset eg an extension of a previous project. In such situations the procurement of assets, goods or services on negotiated fees and terms through that supplier alone may be deemed sound and advantageous to the project. This could include engaging the supplier on a retainer basis for a specialised period of time.
- Continuation of services under an existing purchasing arrangement (i.e. variations/extensions to existing purchase orders or agreements).
- Goods or services are being provided under an existing purchasing arrangement (i.e. warranty, servicing, maintenance or defects liability).
- Where knowledge, design and/or intellectual property is being retained to secure continuity of a staged initiative which may be disadvantaged (e.g. time, objective, financially) if subjected to a further competitive engagement process.

## DEFINITION

|                            |                                                                                                                                                                                                                                                    |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Council</b>             | The Rural City of Murray Bridge                                                                                                                                                                                                                    |
| <b>Emergency Situation</b> | A situation where Council is required to remedy or make good damage incurred to Council property from a natural or man-made incident. The Chief Executive Officer has the authority to act in an Emergency Situation: goods, works and services in |

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|                                    | these instances may be purchased from a supplier without reference to the financial limitations provided in this Policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Goods</b>                       | A physical or tangible item that does not include a labour component                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Local Supplier</b>              | A supplier which is beneficially owned by persons who are residents or ratepayers of the Rural City of Murray Bridge, or has its principal business within the Rural City of Murray Bridge, or a business that substantially employs persons who are residents or ratepayers                                                                                                                                                                                                                                                                                                                  |
| <b>Personnel</b>                   | Employees (including trainees), Volunteers and Elected Members                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Procurement</b>                 | A series of activities that are undertaken when purchasing goods, works and services, based on three key phases, planning, purchasing and contract management                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Purchasing</b>                  | The process by which the Rural City of Murray Bridge contracts with another party to obtain the goods, works and services required to fulfil its business objectives                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Services</b>                    | The performance of a task, duties or work for another, by an individual or an organisation, which normally involves the provision of labour and/or professional services                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Supplier</b>                    | A person or entity that provides goods, works or services to the Rural City of Murray Bridge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Total Cumulative Spend</b>      | The total expenditure with a supplier or a number of suppliers over a set time period providing similar goods, works or services of an ongoing nature                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Value of Purchase Threshold</b> | The relationship between the expected value of the purchase of a type of good, works or service from a supplier, or number of suppliers, providing similar goods, works or services, and the procurement method used to procure those goods, works or services.                                                                                                                                                                                                                                                                                                                               |
| <b>Worker</b>                      | A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as:<br>a) an employee; or<br>b) a contractor or subcontractor; or<br>c) an employee of a contractor or subcontractor; or<br>d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or<br>e) an outworker; or<br>f) an apprentice or trainee; or<br>g) a student gaining work experience; or<br>h) a volunteer; or<br>i) a person of a prescribed class.<br>(as defined in the WHS Act 2012 (7)) |
| <b>Works</b>                       | All work necessary for the completion of the Contract, including any variations ordered or agreed by the Council's Representative.                                                                                                                                                                                                                                                                                                                                                                                                                                                            |