

Procurement Policy



Policy Reference Number	47CP
Responsible Department	Corporate & Community Services
Related Policies	Code of Conduct for Elected Members, Code of Conduct for Employees, Internal Control, Internal Review of Council Decisions, Risk Management, Prudential Management
Related Procedures	Code of Practice for Tendering Preferred Contractors Register Procedures
Date of Initial Adoption	18 September 2007
Last Reviewed by Council	15 March 2011

1. Purpose

The purpose of this Policy is to provide information and guidance to Council's staff in their procurement of goods, services, works and property.

Procurement encompasses:

- The whole process of acquiring goods and services. It begins when a need has been identified and Council or staff decide that it is a procurement requirement.
- The processes of risk assessment, seeking and evaluating alternative solutions, contract award, delivery of and payment for the property, goods or services and, when relevant, the ongoing management of a contract and the consideration of options related to the contract.
- The ultimate disposal of property at the end of its useful life and the ongoing monitoring and assessment of the procurement, including the goods and services procured.

The Policy establishes the procurement framework which will be supported by Council's associated procedures and operational guidance related to procurement.

This Policy demonstrates Council's commitment to procuring goods and services in an open, fair, transparent and effective manner that ensures the maintenance of appropriate standards of probity and ethics throughout procurement processes.

Where a project or commercial activity is required to be managed in accordance with prudential management legislation, Council will follow its Prudential Management Policy.

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2. Power to Make the Policy

Specific legislative requirements govern the manner in which the Council is permitted to conduct itself during procurement.

2.1 Legislative Provisions

Relevant major legislative requirements include the:

- 2.1.1 Local Government Act 1999 (SA);
- 2.1.2 Trade Practice Act 1974 (Cth); and
- 2.1.3 Competition Policy Reform (South Australia) Act 1996 (SA).

2.2 Local Government Act 1999 (SA)

The Local Government Act 1999 governs the way the Council conducts itself during procurement. This Policy complies with the requirements of the Local Government Act 1999 at the time it was endorsed by the Council. Staff undertaking procurement activities need to be aware of and observe the following provisions of the Local Government Act 1999:

- 2.2.1 Section 7 which outlines the functions of a Council;
- 2.2.2 Section 8 which outlines the objectives of a Council;
- 2.2.3 Section 48 which outlines the prudential requirements for certain activities conducted by Councils; and
- 2.2.4 Section 49 which deals with the requirements for contracts and tenders policies. These requirements are addressed in this Policy.

3. Strategic Plan Link

This Policy has the following link to Council's Strategic Plan 2010-2020:

Goal 2 – Leadership

A Council providing strong leadership and excellent service delivery.

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4. Principles

The objective of this policy is to provide clear direction and a framework that enables the Council to achieve best practice in relation to its purchasing and disposal functions.

Council's procurement activities will be undertaken in a way which:

- Encourages purchases being made in an open, fair and transparent manner;
- Promotes accountability, efficient purchasing practices and their continuous improvement;
- Is consistent with Council's strategic and long-term financial directions;
- Ensures the integrity of all procurement processes conducted by the Council (ie in accordance with its legislative and common law responsibilities);
- Facilitates achieving value for money through the most appropriate provider;
- Ensures open and effective competition;
- Encourages local and Australian businesses and / or generates local employment;
- Complies with Council's environmental obligations under the National Greenhouse and Energy Reporting Act 2007;
- Encourages the maintenance of assets at acceptable standards in the most cost effective manner;
- Appropriately manages risk; and
- Demonstrates sensitivity to the current and future needs of a diverse community.

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5. Definitions

In this Policy, unless a contrary intention appears, definitions have the following meaning:

Approach to market	a general collective term used to describe an invitation to suppliers to provide quotes, proposals, expressions or registrations of interest or to tender.	Deleted: is Deleted: that can be
Competitive tendering	seeking the provision of Council services to competition through a formal and competitive tendering process.	Deleted: means
Contracting out	the use of an external provider for specific services.	Deleted: means
Direct negotiation	entering into direct negotiations with a single selected service provider, without any prior approach to market.	Deleted: means
Direct sourcing	going directly to the source of the supply.	Deleted: means
Disposal	<u>where Council no longer has care and control of an asset and the asset is consequently deleted from its Asset Register.</u>	Formatted: Font: Not Bold Formatted: Font: Not Bold
End user needs	goods and services that are the actual needs of those that will utilise them and not perceived needs of any other person in the procurement process.	Deleted: means
Evaluation criteria	the individual points against which all received quotes, tenders or expressions of interest will be measured. The criteria are based on the specifications and weightings provided to potential suppliers and which, in turn, suppliers have responded to when preparing their quote or tender.	Deleted: means Deleted: Deleted: criteria
Expression of interest	the first stage of a two stage process, in which suppliers are invited to register interest for the supply of goods and services. Suppliers are then short listed for a selective tender.	Deleted: means Deleted:
Goods and Services	goods, services, works and/or property as it would apply in the relevant section of the Policy.	Deleted: means Deleted:
Invitation to tender	where <u>the</u> request for tender documents are issued to the known available service providers assessed as the most capable of delivering the work, product or service required.	Deleted: Deleted: is
Limited tendering	includes invitations to tender and direct negotiation.	
Open tendering	undertaking a formal tender process for a specific service in the open market.	Deleted: means
Preferred supplier	an arrangement under which the Council and a supplier agree that goods or services will be supplied under agreed pricing and/or supply conditions for a stated period.	Deleted: means
Preferred supplier panel	a group of suppliers that have pre-qualified in accordance with Council's set criteria for the supply of goods and services to Council.	Deleted: means
Panel arrangements	<u>entities established to assist Council with group purchasing arrangements</u>	

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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 parties to the procurement process with fair and equitable treatment.

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Procurement a series of activities that are undertaken when purchasing goods and services, based on three key phases: planning, purchasing and contract management. Each phase must be completed to ensure success.

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Purchase Order the official document used by Council to record its commitment to purchase goods and/or services. It contains Council's standard terms and conditions and is produced by Council's finance system.

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Request documentation includes request for quotes, request for tender and expression of interest.

Request for quotes a process for inviting quotes to achieve a stated outcome.

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Request for tender a process in which an invitation to submit offers for clearly described goods or services is publicly advertised.

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Select tender a process in which selected organisations or individuals are invited to submit offers or proposals for goods or services.

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Staged tendering expressions of interest followed by a select tender process.

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Tender a proposal, bid or offer that is submitted in response to a Request for Tender. It is one of several different market-approach strategies.

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Value for money allows the relative benefits of different procurement options to be measured by taking into account all the costs incurred in respect of goods or services over their lifespan, such as installation, training, maintenance, disposal costs, quality and assurance systems, resources provided and innovation technology.

Whole of life cost the total net cost incurred when acquiring goods or services and is made up of all initial procurement costs, operating and maintenance costs, disposal costs and termination costs, less the residual value, if any.

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6. Policy

6.1 Contracting Out

Council will provide services to the community in the most effective manner possible utilising an appropriate mixture of contractors and Council employees so as to discharge its obligations pursuant to the Local Government Act 1999 and achieve value for money.

In determining whether to procure the services of contractors, Council will assess the need for specialist short term skills and equipment against the need to maintain a strong skills base of Council employees and determine the appropriate mix in the circumstances.

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6.2 Value for Money

The Council strives to achieve value for money in its procurement activities by:

- Undertaking a comparative analysis of the costs and benefits of each proposal throughout the whole procurement cycle; and
- Specifying clear conditions and evaluation criteria in approach to market documents.

Council will take into account the following factors in determining value for money:

- The maturity of the market for the [good](#), property or service sought;
- The performance history of each prospective supplier;
- The relative risk of each proposal;
- The flexibility to adapt to possible change over the life cycle of the [good](#), property or service;
- Financial considerations, including all relevant direct and indirect benefits and costs over the whole procurement cycle;
- The anticipated price that could be obtained, or the costs that may be incurred at the point of disposal;
- The evaluation of contract options (for example, contract extension options); and
- Any other value-add functions of relevance to Council that the supplier can provide e.g. environmental performance of the product / service, contribution of supplier to the local economy / community, etc.

6.3 Open and Effective Competition

Open and effective competition is the central operating principle in pursuit of the best outcome. Openness requires procurement actions that are visible to the Council, ratepayers and suppliers. The probability of obtaining the best outcome is increased in a competitive environment.

Council will create effective competition by maximising the opportunities for firms to conduct business with it through the selection of procurement methods suited to market conditions.

Council aims to promote efficient competition between public and private businesses through the application of competitive neutrality principles and practices to significant local government activities pursuant to the Competition Policy Reform (South Australia) Act 1996.

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6.4 Selection of an Appropriate Procurement Process

Council will generally select from one of the following procurement processes:

- Open tendering
- Select tendering
- Limited tendering
- Staged tendering
- Direct negotiation with a preferred supplier, group of suppliers or supplier panel
- Request for quotes
- The use of existing third party contracts
- Joint procurement arrangements with other councils
- Direct sourcing
- Panel arrangements (eg Local Government Corporate Services, Strategic Purchasing) or arrangements with prequalified suppliers

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The appropriate procurement method will be determined on a case by case basis.

Participation in the procurement process imposes costs on the Council and potential suppliers. These costs will be considered when determining a process commensurate with the scale, scope and relative risk of the proposed procurement and where relevant.

6.5 Justification Of Choice Of Procurement Method

Staff will select a method of approaching the market which is suited to the procurement. Determining the best method in the circumstances will generally be based on the consideration of the following types of issues:

- The nature of the procurement
- The value of the procurement
- The risk associated with the procurement
- Whether the market for the procurement is known
- What is the most efficient process to achieve the Council's objectives in a timely and cost efficient manner

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The following table provides direction (unless as otherwise approved within the Chief Executive Officer's delegated purchasing authority) to staff regarding approach to market selection and the decision making responsibility for procurements:

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<u>Procurement Category</u>	<u>Estimated Value Range (ex GST)</u>	<u>Approach to Market Suggestions</u>	<u>Decision Making Responsibility</u>
<u>1</u>	\$1 - \$20,000	Direct sourcing / negotiation Use of existing third party contracts Panel arrangements / arrangements with prequalified suppliers Joint procurement arrangements with other councils	Staff – within the limit of their delegated purchasing authority (see 6.6 below) and the approved budget
<u>2</u>	\$20,001 - \$100,000	Use of existing third party contracts Panel arrangements / arrangements with prequalified suppliers Joint procurement arrangements with other councils Written quotes from at least three (3) suppliers Direct negotiation with preferred supplier(s) where market is known to be limited Open / Select / Limited / <u>Staged</u> Tender	Chief Executive Officer or General Managers – within the limit of their delegated purchasing authority (see 6.6 below) and the approved budget
<u>3</u>	\$100,001 - \$500,000	Use of existing third party contracts Panel arrangements / arrangements with prequalified suppliers Joint procurement arrangements with other councils Open / Select / Limited / <u>Staged</u> Tender	Chief Executive Officer within the approved budget – based on recommendations by staff provided in a report supported by the General Manager of the Department
<u>4</u>	Greater than \$500,000	Use of existing third party contracts Panel arrangements / arrangements with prequalified suppliers Joint procurement arrangements with other councils Open / Select / Limited / <u>Staged</u> Tender	Council – <u>taking info account</u> recommendations by staff

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6.9 Emergency Procurement

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During an emergency incident, flexibility in the procurement process may be required to ensure that necessary responses are not delayed and that Council's operations are maintained or restored as soon as practicable. Council will undertake procurements during an emergency incident utilising preferred suppliers if possible and taking into account Council's procurement principles, given the circumstances at hand.

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Emergency incidents where exemption from this Policy applies are:

- A state of emergency declared under the Emergency Management Act 2004
- An incident that requires activation of Council's Emergency Management Plan and/or Business Continuity Plan.
- An incident declared by the Chief Executive Officer, (or nominee) where the safety or security of any person or property associated with Council is threatened.
- An external incident to which the Chief Executive Officer (or nominee) has authorised the provision of urgent support.

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6.10 Risk Management

Risk is part of the environment within which the Council operates. Risk management involves the systematic identification, analysis, evaluation, treatment, monitoring and, if appropriate, acceptance of risks. Risk management is integral to the cost effective delivery of services and the acquisition of goods by the Council.

As a general principle, risks should be borne by the party best placed to manage them. Council will not accept risk which increases the risk and costs to Council which another party is better placed to manage.

Council will carefully monitor the terms and conditions, including pricing, on which risk allocations are determined, to ensure that they reflect value for money and do not increase the risk to the Council.

6.11 Professional Integrity, Ethical Behaviour and Fair Dealing

Staff involved in procurement will act in an ethical way.

Ethical behaviour encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency. Ethical behaviour identifies and appropriately handles conflicts of interest.

A procurement conducted in an ethical manner will enable purchasers and potential suppliers to deal with each other on a basis of mutual trust and respect. In conducting procurements, there is an implied obligation to treat all participating potential suppliers equitably.

The procurement process rules need to be clear, open, well understood and applied equitably to all parties to the process. All potential suppliers will have the same opportunities to compete for Council's business and will be treated equitably based on their legal, commercial, technical and financial abilities. For example, when providing further information to potential suppliers during the

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course of a procurement, staff will effect procedures to treat all potential suppliers fairly.

The procurement of services should be conducted in a way that imposes as far as practicable the same level of accountability and responsibility on the service provider as would exist if the Council carried out the services itself.

In pursuit of ethical behaviour, staff will, for example:

- Disclose to the Chief Executive Officer any possible conflict of interest; [where a potential conflict relates to the Chief Executive Officer, it will be disclosed to the Council in accordance with Section 120 of the Local Government Act 1999](#)
- Deal with all suppliers in an honest, fair and equitable manner
- Respect all in-confidence information received and not use it for personal gain, or to prejudice fair and open competition
- Not accept money, goods, loans, credits, purchasing incentives, services or prejudiced discounts
- Not use Council's name or purchasing power to make purchases other than for Council use

during the procurement of services. In this regard, Staff will ensure that their close associates also do not receive an advantage in relation to a Council procurement.

6.12 Probity, Accountability and Transparency

The Council has the responsibility of ensuring that any procurement process is transparent and that its decisions are justified.

[Staff will advise the Chief Executive Officer prior to the purchase being undertaken where the procurement will result in:](#)

- [a change in the Procurement Category applied to the purchase](#)
- [for projects with a value greater than \\$100,000 \(ex GST\), the expenditure being 10% higher than budgeted for](#)

[If this is not possible, notification should be provided to the Chief Executive Officer as soon as practical.](#)

6.13 Approaching the Market

Council may issue a notice inviting potential suppliers to participate in a procurement by using an open or select approach to the market.

Open approaches to the market may include requests for tender, requests for expression of interest and request for applications for inclusion on a preferred supplier panel.

Select approaches to the market can include invitations to tender in a select process in accordance with a select tendering process or other requests for proposal or quotes.

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6.14 Occupational Health, Safety and Welfare

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All suppliers of goods and services will, as a minimum, be capable of and agree to comply with the standards prescribed by the Occupational Health, Safety and Welfare Act 1986 (SA) and its Regulations.

Additional Occupational Health, Safety and Welfare requirements will be outlined in the request documents and resulting contract (or any other documents evidencing the agreement between Council and the supplier).

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If the purchase of goods, materials or plant and equipment involves implications for the safety, health and welfare of the Council's employees, the employees involved will be consulted prior to the purchase. Council's Risk Management Coordinator should be consulted (where applicable) prior to such purchase.

6.15 Environmental Considerations

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Council is committed to protecting the environment for a sustainable future and encourages suppliers to do the same.

During a procurement process, prospective suppliers may be required to demonstrate if they can offer products and services which conserve resources, save energy, minimise waste, contain recycled products and/or are environmentally sustainable. Documented quantified savings or actions undertaken will be considered as proof of environmental credentials and will be considered along with other parameters when a service or function is being requested by Council.

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Similarly, where it is assessed that a potential environmental impact (risk) is associated with a particular procurement, prospective suppliers may be required to communicate their environmental management practices when responding to an approach to market from Council.

To the extent permitted by law, when all other considerations are equal, Council reserves the right to favour the engagement of suppliers who demonstrate that their service provision is through using environmentally responsible practices.

6.16 Local and Australian Made

To the extent permitted by law, when all other considerations are equal, Council will favour the engagement of local suppliers, and the use of Australian made goods and suppliers whose activities contribute to the economic development of the region and/or provide local employment opportunities.

6.17 Modification of Request Documents

If the Council modifies the request documentation or any aspect of an approach to the market it must transmit all modifications (ie the amended documents):

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6.17.1 To all known potential suppliers who are participating at the time the information is amended, in the same manner as the original information; and

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6.17.2 In adequate time (a minimum of 3 working days prior to the closing date) to allow potential suppliers to modify and re-lodge their initial submissions.

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6.18 Time Limits

Council will provide sufficient time for potential suppliers to prepare and lodge submissions in response to an approach to the market. This will be determined on a case by case basis.

If the Council intends to specify conditions for participation that require potential suppliers to undertake a separate registration or pre qualification procedure, the Council will include the time limit for responding to the registration or pre qualification in the request documentation. Any such conditions for participation will be published in sufficient time to enable all interested parties to complete the registration and pre qualification procedures within the time limit for the procurement.

All potential suppliers participating in a procurement must be required to lodge submissions in accordance with a common deadline. Any time limit imposed in relation to any aspect of a procurement will be applied equitably to all participating potential suppliers.

6.19 Receipting and Opening Submissions

Council will observe procedures for the receipt and opening of all submissions which guarantee fairness and impartiality.

All tenders are to be opened in the presence of at least two staff as nominated by the Chief Executive Officer (or nominee), with each page detailing prices being signed and dated by the staff present.

The Council must not penalise any potential supplier whose submission is received after the specified deadline if the delay is solely due to mishandling by the Council.

If Council provides potential suppliers with an opportunity to correct unintended errors identified between the opening of submissions and any decision, the Council must provide the same opportunity to all participating potential suppliers.

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Council must only give further consideration to a submission if at the time of opening the submission it included the minimum content and format of submissions as stated in the request documentation issued. That is, the submission must be in a form meeting the required format and include all required information, statements, certifications and declarations.

6.20 Sale and Disposal of Land and Other Assets

6.20.1 Land

Council will sell or dispose of land through adoption of the following methods:

- sale by open tender;
- sale by direct approach to potential purchasers in specific circumstances such as:
 - prior ownership of the land;
 - owners of land adjoining the parcel of land for sale;
 - prior contractual arrangement;

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- other means as deemed appropriate by Council.

6.20.1.1 Land Valuation

Prior to selling land the Chief Executive Officer will seek a valuation from a registered valuer for the purpose of setting a reserve price.

If the owner of abutting land seeks to purchase land from the Council, two independent valuations will be obtained [by the Council](#) at the cost of the intending purchaser and the higher valuation will be applied. Alternatively an exchange of land may be considered subject to consultation with all other owners of abutting land.

6.20.1.2 Factors Determining the Method of Sale or Disposal

[The method of sale or disposal of an asset will be determined on a case-by-by basis.](#) In determining the appropriate method of sale or disposal Council will consider factors including, but not limited to:

- the number of known potential purchasers
- the original intention for the use of the land or the asset when it was acquired by Council
- the current and potential future use of the land or asset
- the existence of local purchasers
- the opportunities to promote local economic growth and development
- the total estimated value of the sale
- compliance with statutory and other obligations

6.20.2 Public Consultation

Council recognises its responsibility, when considering the sale of Community Land, to undertake public consultation as required by the Local Government Act 1999 and in accordance with its Public Consultation Policy.

In addition, when considering the sale of land not designated as Community Land but significant to the community, public consultation will occur.

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6.20.3 Assets

This Policy will apply to all assets recorded in Council's Asset Register.

Council will sell or dispose of assets through adoption of the following methods:

- trade-in on new items
- direct sale by public advertisement
- sale by public auction
- sale by selected tender
- sale by open tender
- sale by direct approach to potential purchasers in specific circumstances such as:
 - prior ownership of the asset
 - direct relationship with an asset (eg. painting commissioned or painted by a relative)
- other means as deemed appropriate by Council.

6.20.3.1 Factors Determining the Method of Sale or Disposal

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In determining the appropriate method of sale or disposal Council will consider factors including, but not limited to:

- the number of known potential purchasers
- the original intention for the use of the land or the asset when it was acquired by Council
- the current and potential future use of the land or asset
- the existence of local purchasers
- the opportunities to promote local economic growth and development
- the total estimated value of the sale
- compliance with statutory and other obligations

6.20.4 Sale and Disposal Authority

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Where assets are not disposed of in accordance with 6.20.3 and the estimated value of an asset (other than land) does not exceed \$5,000, Council will delegate the sale or disposal of the asset to the Chief Executive Officer under the Local Government Act 1999. This power may be sub-delegated by the Chief Executive Officer to other Council staff in accordance with the schedule published in Council's Delegations Register. The Chief Executive Officer shall promptly report to Council any sale or disposal of an asset under a delegated authority.

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6.21 Purchase of Land

Council will seek to purchase land in accordance with a Council decision and generally for a direct purpose or as a strategic acquisition.

Where an opportunity arises to purchase a relevant parcel of land, staff will advise Council of the opportunity through a confidential Council report. If Council decides to pursue the purchase, it will then establish a high – low price for negotiation and delegate the Chief Executive Officer to conduct the purchase within these (and any other relevant) parameters.

6.22 Code of Practice for Tendering

Council has adopted a Code of Practice for Tendering to provide guidelines for best practice in tendering, to set out the Council's expectations of Tenderers and to outline the steps that the Council will follow when tendering for goods and services.

All tenders will be written in such a manner that reflects the principles outlined in the Procurement Policy.

Council's Code of Practice for Tendering is available for inspection at Council's principal office during ordinary business hours and at Council's website www.campbelltown.sa.gov.au. Copies will also be provided to potential Tenderers as part of the tender process.

7. Review & Evaluation

This Policy will be reviewed annually. The Chief Executive Officer will report to Council on the outcome of the review and make recommendations for amendment, alteration or a substitution of a new Policy if considered necessary.

8. Availability of the Policy

This Policy will be available for inspection at Council's principal office during ordinary business hours and at Council's website www.campbelltown.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 Schedule of Fees and Charges.

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Appendix 1: Exemptions from Purchase Orders

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The items listed below have been identified as being exempt from a Purchase Order being generated to proceed with this purchase:

- [Legal and debt collection services](#)
- [Software licencing](#)
- [Vehicle registrations](#)
- [Refunds or reimbursement of expenses](#)
- [Banking and income collection services](#)
- [Borrowing costs \(interest\)](#)
- [Auditor's fees](#)
- [Statutory Government charges](#)
- [Courier services](#)
- [Insurance premiums and excess payments](#)
- [Leases and rentals](#)
- [Postal and courier services](#)
- [Subscriptions and memberships](#)
- [Travel and accommodation \(ie taxi fares\)](#)
- [Utilities \(water, electricity, gas, telephone, fuels\)](#)
- [Elected Member allowances](#)

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