

<b>Policy Name:</b>	<b>PROCUREMENT</b>
<b>Adopted:</b>	<b>23 May 2023</b>
<b>Frequency of Review:</b>	<b>4 Yearly</b>
<b>Last Review:</b>	<b>February 2023</b>
<b>Next Review Due:</b>	<b>February 2027</b>
<b>Responsible Officer(s):</b>	<b>Manager Finance and Procurement</b>
<b>Policy and Code of Practice Manual File Ref:</b>	<b>CC10/2601</b>
<b>Council File Reference:</b>	<b>CR23/1865</b>
<b>Legislation Authority:</b>	<b>Local Government Act 1999</b>
<b>Related Policies and Codes:</b>	<b>Budget Management Policy</b> <b>Corporate Purchase Card Policy</b> <b>Caretaker Elections Policy</b> <b>Disposal of Land and Assets Policy</b> <b>Expenditure Policy</b> <b>Human Resource Management Policy</b> <b>Light Vehicle Fleet, Plant and Heavy Vehicle Replacement and Management Policy</b> <b>Prudential Management Policy</b> <b>Records Management Policy</b> <b>Risk Management Policy</b> <b>WHS Contractor Management Policy</b> <b>WHS and Injury Management Policy</b>
<b>Related Procedures:</b>	<b>Contract Management Procedure</b> <b>Hazard Chemicals Procedure</b> <b>Hazard Management Procedure</b> <b>Plant Procedure</b> <b>Procurement Procedure</b> <b>WHS Contractor Management Procedure</b>

## 1. PURPOSE

The responsible and publicly accountable expenditure of funds by Town of Gawler (**Council**) is to be conducted efficiently and effectively to achieve optimum value for Council and its ratepayer's whilst ensuring that all expenditure is:

- Conducted in a consistent and controlled manner.
- Compliant with legislation and best practice principles.
- Undertaken with high levels of probity and transparency.
- Aligned to the value and related policies of Council and its community.

This policy has been developed to align with the requirements of section 49 of the *Local Government Act 1999* (the Act) and is not intended to conflict with any other legislative requirements.

### **2. POLICY STATEMENT**

Council is committed to implementing fair, transparent and competitive purchasing and contracting practices achieving optimum value for money outcomes aligned to Council's strategic objectives, community expectations and the requirements of any special funding sources.

### **3. SCOPE**

This policy applies to the procurement of all goods, services and works and is binding on all persons undertaking this process on behalf of Council. This policy does not cover:

- Expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts.
- The undertaking of expression of interest processes or other invitations to market/public seeking partnership, sponsorships or other non-procurement agreements.
- The disposal of land and other assets owned by the Council.
- The acquisition of land by the Council.

### **4. PROCUREMENT OBJECTIVES**

Council is committed to achieving a range of objectives through its procurement processes that may be considered alongside achieving value for money outcomes. Such objectives should be supported by appropriate evaluation criteria and weightings and decisions of Council. Procurement activities undertaken by Council can include the following procurement objectives.

#### **4.1 Achieving Value for Money**

Value for money outcomes can be achieved through balanced consideration of financial and non-financial factors relevant to the procurement. An assessment of value for money should include consideration of:

- 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.
- Maintenance and promotion of effective supplier relationships.
- The development and encouragement of competitive local business and industry.
- Fitness for purpose of the proposed goods, services and works and warranties.
- Whole of life costs including acquiring, using, maintaining and disposal.
- Council's internal administration costs.
- Technical compliance issues and costs.
- Risk and associated work, health and safety considerations.
- Social and environmental benefits and/or impacts.
- Prevailing market forces and trends.

#### **4.2 Open and effective competition**

Council will provide supplier markets with clearly defined and scoped opportunities to provide goods, services and works. This approach will provide visibility of requirements and process to the Council, ratepayers and suppliers and encourage a more competitive environment. It will include:

- Providing opportunities for new suppliers to conduct business with Council.
- Staff conducting a procurement process providing timely responses to all queries and considering the provision of such advice to all other interested parties depending on the nature of the response.
- All respondents being offered feedback on unsuccessful tenders and/or quotes to demonstrate transparency of the procurement process and the opportunity for continuous improvement.

### 4.3 Ethical Behaviour and Fair Dealing

All persons undertaking procurement activities are required to behave with impartiality, fairness, independence, openness and integrity in all discussions, negotiations, and ongoing management of contracted goods, services and works.

### 4.4 Probity, Accountability, and Transparency

Any purchasing and contracting activities conducted by Council will apply the highest standards of integrity, accountability and transparency.

- All records relating to a procurement process must be created and retained according to legislative and organisational requirements, including evidence of processes undertaken, information received, meetings held, communications, approvals and decisions.
- All exemptions from this policy must be documented.
- Staff will ensure appropriate management of confidential information, conflicts of interest, gifts and gratuities in accordance with related policies and codes of conduct.
- All purchasing decisions are to be transparent, clearly documented and justifiable if subjected to audit, public scrutiny and any potential legal challenge.
- All processes will be conducted in a consistent and transparent manner with due regard to the commerciality of the process.
- Information gathered from suppliers will be treated as “commercial in confidence” and only disclosed and used for the proposed purposes it was gathered for.
- Confidentiality requirements (as per section 90(3) of the Act) will be considered for all reports presented as part of a Council Agenda.

### 4.5 Local Economic Benefit

In the policy, “**Local**” is defined as:

- Tier 1 – “**Area**” – Town of Gawler local government area
- Tier 2 – “**Region**” – within 20km of the Town of Gawler local government area.

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

Council encourages the participation of local suppliers, contractors and manufacturers and provides, where practical, opportunity for Local economic benefit.

Council will endeavour to support Local economic benefit by:

- actively promoting opportunities to supply to the Council in the Local Area and Region
- structuring purchasing processes to be accessible to all businesses
- giving preference to local business when all other commercial and procurement considerations are equal
- having regard for the following in establishing evaluation criteria and weightings:

- the creation and/or maintenance of Local employment opportunities
- building beneficial relationships leading to higher levels of responsiveness and ongoing support
- economic growth within the Local Area and Region
- benefit to Council of associated Local commercial transaction
- the short- and long-term impact of the procurement on Local employment, supply input and investment.

Council will look for Local suppliers when undertaking direct and select procurement processes.

Council will apply employment, supply input and investment industry participation measures to the evaluation of competitive procurement processes.

Council will apply a **weighted criteria between 15% and 30% to local economic benefit** to all competitive procurements.

A report on local economic benefit initiatives and outcomes will be provided to Council on an annual basis.

#### 4.6 Environmental Considerations

Council supports protection of the environment through its purchasing activities. In undertaking any purchasing activities Council will, wherever practical:

- Adopt purchasing practices which conserve natural resources.
- Align the Council's procurement activities with principles of ecological sustainability.
- Preference recycled and environmentally preferred products where possible.
- Integrate relevant principles of waste minimisation and conservation of energy.
- Select goods, services and works which have lower environmental impacts across their lifecycle compared to competing goods, services and works.
- Provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods, services and works.

#### 4.7 Social Impact on Procurement Outcomes

Council supports the intentional generation of social value through procurement processes that can occur through engaging with minority or under-represented suppliers such as:

- Aboriginal and Torres Strait Islander suppliers.
- People with a disability or supporting organisations.
- Small to medium enterprise particularly if locally based.

#### 4.8 Work, Health & Safety

Council is committed to applying relevant work, health and safety standards to its procurement and contracting processes and requires that:

- All suppliers of goods, services and works will, as a minimum, be capable of and agree to comply with the standards prescribed by the *Work Health and Safety Act 2012 (SA)* (the WHS Act) and its Regulations.
- Additional work health and safety requirements will be outlined in the request documents and resulting contract (or any other documents evidencing the agreement between the Council and the supplier).

- Procurement of any plant, equipment and substances must be undertaken from manufacturers, suppliers or distributors who are able to demonstrate full compliance with the WHS Act.
- If the procurement of goods, materials or plant and equipment involves implications for work, health and safety, Council's Work Health & Safety & Risk Management team should also be consulted prior to such procurement.
- Where appropriate, procurement evaluation must ensure an appropriately skilled person confirms all WHS assessments.

### 4.9 Risk Management

All procurement activities conducted by Council must be mindful of inherent and associated risks at all levels. The purchasing process must consider the following:

- A formal Risk Assessment must be completed where there are deemed to be high residual procurement risks.
- Risk management involves the systematic identification, analysis, evaluation, treatment, monitoring and, if appropriate, acceptance of risks.
- A probity advisor and/or auditor may be appointed to advise on or review the procurement activity.

## 5. PROCUREMENT METHODS

The method of procurement will be selected having regard to the Procurement Objectives outlined in this policy and any other factors considered relevant by the Council such as complexity, characteristics of the market, Council's strategic objectives – **and in accordance with the Procurement Thresholds**. Persons with financial delegation authority to procure will be responsible for ensuring appropriate procurement practices and procedures including the identification of risk are observed.

### 5.1 Direct Sourcing

- Directly approaching and negotiating with one supplier, without obtaining competing bids.
- Direct sourcing may be justified where:
  - The transaction is of low value and low risk.
  - There is only one supplier (monopoly) for the goods, services or works.
- Price should be tested for currency prior to awarding a supplier to consider value for money.

### 5.2 Request for Quotations – Informal or Formal (RFQ)

- Informal - simple price quotes from prospective suppliers. This method is suitable for one-off, low value, low risk, low complexity purchases.
- Formal – invites respondents to submit contractual offers to be evaluated against pre-determined criteria. This method is suitable for more complex, low-medium value, low-medium risk, largely price-based purchases.
- Where possible, a minimum of three (3) quotations are sought.

### 5.3 Request for Tenders – Open or Select (RFT)

- Invites respondents to submit contractual offers to be evaluated against pre-determined criteria.
- RFT documents should be tailored to the procurement with only the minimum information necessary to fairly evaluate tenders sought.

- Specifications should be based on a sound and unbiased understanding of market capabilities and commercial practices.
- May be open to the market or select where Council has reasonable grounds for only dealing with a select group of potential suppliers.

### **5.4 Requests for Expressions of Interest (EOI) or Request for Proposal (RFP)**

- EOI - useful when the numbers of suppliers, market size or the approach to solving a problem are largely unknown.
- RFP – useful when Council has a well-defined outcome but there are different ways to achieve it; or Council want an innovative solution, or Council would like to explore different ways of delivering goods, services and works.
- Such processes form the platform for a selective quotation or tender process.
- Council should attempt to assess the market before conducting an EOI or RFP process and refine its requirements as much as possible to ensure responses are targeted appropriately.

### **5.5 Strategic Alliances**

- Council may be able to meet its procurement requirements through contracts already established and administered by other organisations that demonstrate adherence to the requirements of this policy, such as:
  - LGA Procurement
  - Procurement Australia
  - Some State Government contracts;
  - Ad hoc alliances created with other Local Government entities.
- Officers are required to undertake secondary procurement processes when accessing Strategic Alliance arrangements in accordance with the Procurement Thresholds.

### **5.6 Council Panel Contracts**

- Council may establish its own panel arrangements with a select group of suppliers to increase efficient procurement of goods, works and services.
- A panel must operate under a contract or heads of agreement structure and be managed for performance and on-going value for money opportunities.
- Officers can procure goods, services and works using these contracts without the need to seek quotations provided that a single purchase does not exceed the tendering threshold.
- Where the supply of the goods, services or works for a specific engagement is or has the potential to exceed the tendering threshold, a selective tender may be called using the suppliers from the relevant panel.

### 6. PROCUREMENT THRESHOLDS

In-scope procurements are to be in accordance with Council's financial thresholds outlined below.

Value of Procurement	Method of Procurement
Up to \$30,000 (ex GST)	<ul style="list-style-type: none"><li>• Direct Sourcing</li></ul>
\$30,001 to \$200,000 (ex GST)	<ul style="list-style-type: none"><li>• Request for Quotation</li></ul>
Over \$200,000 (ex GST)	<ul style="list-style-type: none"><li>• Request for Tender – Open</li></ul>

The value of the procurement is calculated as follows:

- Single one-off procurement –the total amount, or estimated amount, of the procurement.
- Multiple procurements with the same supplier – the annual gross value, or estimated value, of the procurement.
- On-going procurement over time (>1 year) – the gross value, or estimated gross value, of the procurement over the term of the contract.

The value of the procurement or transaction is calculated across all elements of the procurement process including any contract options, variations, extensions and renewals and should be considered in the planning phase of the procurement. Splitting the value of the purchase into components to meet with lower value of Procurement Thresholds is not permitted.

### 7. CUMULATIVE SPEND

Cumulative Spend should 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.

### 8. EXEMPTIONS FROM THIS POLICY

Where there are emergencies, or procurements in which the required method of procurement will not necessarily deliver best outcome for the Council, other market approaches may be more appropriate.

Authority to provide an exemption from using the required method of procurement will be delegated to the Chief Executive Officer or the relevant Executive Manager in accordance with financial delegations, and reasons for any exemption to the procurement method must be documented.

The Chief Executive Officer or Executive Manager in approving an exempt method will consider the scale, scope and relative risk of the purchasing including the Procurement Objectives defined in this policy. A request for waiver of a competitive process is not a mechanism to remove the need for rigorous procurement planning.

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

- Significant public risk, such as emergency situations threatening life and property.
- 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.
- Continuation of goods, services or works or under an existing purchasing arrangement (i.e. variation or extensions to existing orders or contracts).
- Goods, services or works has already been subject to a recent competitive process and the pricing is still valid.



- Goods, services or works is being provided under an existing purchasing arrangement (i.e. warranty, servicing, maintenance or defect liability).
- The supply market is known and limited.
- Where knowledge, design and/or intellectual property is being retained to secure continuation of an initiative which may be disadvantaged (e.g. time, objective, financially) if subject to future competitive engagement process.
- An EOI or RFP process has resulted in single supplier identified as capable.
- The prospective supplier has knowledge, experience and expertise or owns intellectual property associated with the required goods, services and works that would prevent any other prospective supplier of being able to compete for the goods, services and works.
- Where a funding agreement specifies that Council must follow a prescribed procurement process which differs from that outlined in this policy.
- Where it can be demonstrated that a procurement process will not deliver best outcome for Council and the community.

### **9. DELEGATIONS**

The Council has delegated to the Chief Executive Officer the power in section 36(1)(a), 37(b), and 137 of the Act to enter contracts and expend funds of the Council.

The Chief Executive Officer will determine appropriate sub delegations. Thresholds for financial sub delegations are provided for in Council's Expenditure Policy. Officers may only incur expenditure and enter contracts on behalf of Council if:

- The officer has been granted the financial and/or contractual delegation by the Chief Executive Officer and this delegation has been recorded in a sub delegation instrument.
- The expenditure is within the sub delegates financial threshold.
- The expenditure is provided for in Council's budget.

Approval to undertake a procurement requires confirmation that budget funds are available and uncommitted within the appropriate budget line. Expenditure outside of the adopted budget requires the formal approval of the Executive Manager, CEO or Council subject to the value and nature of the expenditure. By approving the procurement all officers are confirming that they have taken full notice of this policy and will comply with all requirements of this policy.

### **10. RECORDS OF PROCUREMENT ACTIVITIES**

The Council must maintain record of procurement activities in accordance with the Local Government Act 1999, State Records Act 1997, the Procurement Procedure, Contract Management Procedure and Council's Records Management Policies and Procedures.

### **11. PRUDENTIAL REQUIREMENTS**

Refer to Council's Prudential Policy.

### **12. REVIEW**

The effectiveness of this policy will be reviewed every four (4) years. The policy will be reviewed after each general election of Council. The Chief Executive Officer will report to Council on the outcome of the review and if relevant make recommendations for amendments, alteration or substitution of a new policy. The policy will not be altered or substituted so as to affect a process already commenced.



### 13. APPLICABLE LEGISLATION

- *Competition and Consumer Act 2010* (Cth)
- *Competition Policy Reform (SA) Act 1996* (SA)
- *Criminal Law Consolidation Act 1935* (SA)
- *Disability Discrimination Act 1992* (SA)
- *Environment Protection Act 1993* (SA)
- *Freedom of Information Act 1991* (SA)
- *Independent Commission Against Corruption Act 2012* (SA)
- *Industry Advocate Act 2017* (SA)
- *Local Government Act 1999* (SA)
- *Local Government (Elections) Act 1999* (SA) – Caretaker Provisions
- *Modern Slavery Act 2018* (Cth)
- *Ombudsman Act 1972* (SA)
- *State Records Act 1997* (SA)
- *Security of Payment Act 2009* (SA)
- *Work Health and Safety Act 2012* (SA)

### 14. FURTHER INFORMATION

Further information about this policy can be obtained by:

Telephone: 8522 9211  
Email: [council@gawler.sa.gov.au](mailto:council@gawler.sa.gov.au)  
Appointment: 43 High St Gawler East  
Letter: PO Box 130, Gawler SA 5118

### 15. AVAILABILITY OF POLICY

This policy is available to be downloaded, free of charge, from Council's website at [www.gawler.sa.gov.au](http://www.gawler.sa.gov.au)

A printed copy may be purchased on request from the Council's Administration Centre.