



## **Policy No. 2015-06**

# **Tendering and Procurement Policy**

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## 1. Purpose

This Policy applies to all tendering and procurement which the Council is obliged to conduct under the Local Government Act 1993 (the Act). The Policy gives guidance for tendering and procurement procedures.

Central Highlands Council is committed to a tendering and procurement system that will produce the best value for money, quality goods and services to our residents and ratepayers, open and effective competition, enhancement of the capabilities of local business and industry and that treats all tenderers in a timely and fair manner. To help achieve this, this Policy sets out the steps that the Council will follow when procuring and tendering goods, services or works.

To achieve its objective the Council will ensure that the tender process is fair to all parties, and use its best endeavours to demonstrate that fairness to tenderers and potential tenderers. More specifically, it will:

- produce tender documents that clearly specify the Council's required outcomes to allow tenderers to bid for and price work accurately;
- package work put to tender in a manner which encourages competition and the best outcome for residents and ratepayers;
- not participate in, and actively discourage other parties from, improper tendering practices such as collusion, misrepresentation and disclosure of confidential information;
- require any conflict of interest to be disclosed immediately;
- have regard to the cost of tendering to tenderers, residents and ratepayers and seek to constrain that cost.

Council promotes a policy of supporting local business, i.e. within the Municipal area, in the first instance where the local business is able to supply goods and services which are equivalent value and standard to external sources.

Council also has the opportunity to procure selected items through NPN (National Procurement Network); a service made available through LGAT. Prices may be significantly lower due to the increased purchasing power and there may also be significant time savings as specifications, tenders and contracts are all dealt with by NPN.

This policy restates the ethical principles applying to all parties in the tendering process and then describes all steps in the tendering process under the headings of obligations of the principal and of tenderers.

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Adherence to this code provides for minimum acceptable levels of behaviour from those involved in the tender process but does not minimise all areas of potential risk and associated liability.

## **2. Legislative Requirements, Regulations and Associated Council Policies, Procedures and Guidelines.**

This policy should be read in conjunction with applicable, appropriate and associated Legislative Requirements, Regulations, Council Policies, Procedures and Guidelines. These include but are not limited to:

- The *Local Government Act 1993*;
- Local Government (General) Regulations 2015;
- Australian Standard AS4120 – 1994 – Code of Tendering
- Code of Conduct Policies;
- Risk Management Policy and Procedures;
- Staff Induction Procedures;
- Position Descriptions;
- Fraud Policies and Procedures;
- Delegations of Authority;
- Purchasing and Payments Control Policy.

## **3. Glossary of Terms**

### **3.1. This Policy**

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### **3.2. Council**

Central Highlands Council.

### **3.3. Tender Box**

The point or place for lodgement of tenders which is locked.

### **3.4. Contractor**

A contractor is defined as a person or organisation, external to Council, engaged under a contract for service (other than as an employee) to provide specified services to Council. A contractor generally works under the supervision of a Council Manager to provide services which are not readily available in the Council.

### **3.5. Expression of Interest**

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Is a means of identifying potential suppliers or contractors interested in a particular project which may ultimately submit a formal tender or quotation. This allows the Council to shortlist potential suppliers before seeking detailed offers, depending on technical, financial and managerial capacity, thus restricting the issue of formal tenders to those suppliers with demonstrated capacity.

### **3.6. Open/Public Tender**

The formal process of publicly inviting offers through an advertisement in a local newspaper to supply goods and services, or purchase surplus items, normally involving specifications and detailed documentation.

### **3.7. Procurement**

The entire process by which all resources are obtained by an entity, including planning, design, standards determination, specification writing, selection of suppliers, financing, contract administration, disposals and other related functions.

### **3.8. Tender**

Is a formal offer to supply goods or services at a stated cost. A tender may be public (advertised) or selective (bids from selected contractors sought).

### **3.9. Standing Tenders**

From time to time the Council may utilise a standing tender in which one or more tenderers are contracted through an open tender process to provide specified goods or services over a period of time without the need for a further tender process. This may be particularly relevant to supplies of general items such as stationery, cleaning products, etc.

The way in which a standing tender is established is the same as for an open tender process where the specification and description of the tender describe the intent of the standing contract and the conditions of its use.

### **3.10 Multiple Use Register**

From time to time the Council may utilise a multiple-use register process to establish a register of suppliers that Council has determined satisfy the conditions for participation in that register, and that Council intends to use more than once.

If it is determined that a such register will be established, the General Manager will invite expressions of interest from prospective applicants for inclusion on a

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register by publishing at least once in the major regional newspaper and on its website a notice specifying:

- A description of the goods and services, or categories thereof, for which the register may be used;
- The name and address of the council and other information necessary to contract the entity and obtain all relevant documents relating to the register; and
- Any deadlines for submission of application for inclusion on the register.

The General Manager will advise all prospective tenderers of the results of their application including all categories for which they are registered and the reasons for rejection of inclusion on the register as soon as practicable.

When Council wishes to use the register, the General Manager will invite all successful applicants that are registered for the relevant category to tender for the provision of the required good or service, and the tender process as outlined in this policy will be utilised.

Council will review any established register at least once every 3 years.

### **3.11. Multiple-Stage Register**

From time to time the Council may utilise a multiple-stage tendering process. This is a process by which suppliers are evaluated through stages against criteria established by the Council. This is a useful process to:

- Gain market knowledge and clarify the capability of suppliers;
- Shortlist qualified tenderers; and
- Obtain industry input.

The General Manager may call for expressions of interest from prospective tenderers and will ensure that prospective tenderers are provided with all relevant information including details as to the various stages in the tender process.

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As a final stage in a multiple-stage tender process the General Manager will invite all suppliers who have met the criteria set by the Council to tender for the supply of goods or services, in which event the tender process as outlined in this policy will be utilised.

### **3.12. National Procurement Network (NPN)**

The NPN is an alliance of State and Territory Local Government Associations. The NPN combines the purchasing power of around 350 councils Australia wide.

Because LGAT is a member of the NPN, it is able to offer Council, as a member of LGAT, access to:

- Better pricing for a range of goods (savings on government list prices of up to 30%)
- Significant time saved in preparing tender and contract documentation
- Significant time saved in reviewing and appointing appropriate suppliers
- The benefit of nearly always being able to purchase the goods locally – so providing support to local businesses.

By Using the National Procurement Network (NPN), there is no need for Council to draft contracts, advertise, evaluate tenders and award contracts. These functions represent hidden costs that have been estimated to be in the vicinity of \$5,500 per tender.

LGAT has purchased a VendorPanel license which allows councils to create online requests for quotations from preferred and pre-qualified suppliers. VendorPanel is a secure web based system used by organisations to increase transparency, compliance and savings.

## **4. Guidelines – Tendering and Procurement Thresholds**

There are a number of tendering and procurement thresholds that require different levels of involvement in planning and executing the purchase. The following table refers to the thresholds and summarises what purchasing method Council utilises based on the total dollar value of the purchase.

This table also appears within the Purchase and Payments Control Policy 2016-44.

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Procurement or Purchase Value	Minimum Requirement	Officer Authorised to Instigate Purchase Order (Purchasing Officer)	Authority / Approval (Refer to Purchasing and Payments Control Policy)
Under \$10,000	<u>One</u> verbal quotation where applicable. Council Purchase Order where appropriate.	All Managers and Works Supervisor; Executive Assistant; Senior Administration Officers; and Community Development Officer	Orders over \$10,000 to be authorised by applicable Manager or Supervisor.
\$10,001 to \$20,000	<u>Two</u> quotations, one of which to be from a local business, if possible. Council Purchase Order where appropriate.	All Managers and Works Supervisor; and Executive Assistant	To be authorised by applicable Manager, Deputy General Manager or General Manager.
\$20,001 to \$50,000	<u>Two</u> written quotations, one of which to be from a local business, if applicable. Council Purchase Order where appropriate.	All Managers	To be authorised by applicable Manager, Deputy General Manager or General Manager.
\$50,001 to \$99,999	<u>Three</u> written quotations, one of which to be from a local business, if applicable. Council Purchase Order where appropriate.	All Managers	To be recommended by applicable Manager and authorised by Deputy General Manager or General Manager.
\$100,000 up to \$249,999	<u>Three</u> written quotations, one of which to be from a local business, if applicable. Council Purchase Order where appropriate.	General Manager	To be recommended by applicable Manager or Deputy General Manager and authorised by General Manager.
\$250,000 or over	Council <u>MUST</u> advertise each Tender/EOI at a minimum in the local regional newspaper and advertise on the Council website.	General Manager	Contracts to be awarded and signed by the General Manager after acceptance and approval by Council.

## 5. Processes and Principles

### 5.11. Specifications

The Council has responsibility to its residents and ratepayers to ensure services are properly delivered. It will therefore develop specifications that clearly set out the Council's expectations. Most specifications will focus on outcomes and quality requirements, rather than particular ways of delivering a service. Some specifications may include both input and output requirements for a service.

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The tender documents will require tender proposals to indicate how the performance standards will be met, and how the tenderer would measure the satisfaction levels of service users.

The tender documents will require the tenderers compliance with Council’s Work Health and Safety Policy (2014-24).

In developing specifications, the Council will consider the requirements of service users and may seek the views of the providers of the existing service and others providing similar services, whether in the public or private sector.

The Council will identify in the specifications any Council assets to be made available to tenderers, whether in-house or external, and may set costs, terms and conditions for the use of the assets.

No potential tenderer will have access to the final specifications prior to their formal approval and public release by the Council.

#### **5.12. Public Notice**

Public notice is required under the Act to start a tender process. The Council will advertise in the Public Notice Section of the Mercury newspaper and may advertise in other newspapers or publications where appropriate. The Council will also place information on the tender on its website.

When advertising the Council will specify:

- The nature of the goods or services required;
- Any identification details allocated to the contract;
- Where the tender is to be lodged;
- Particulars identifying a person from whom further or detailed information relating to the tender can be obtained; and
- The period within which the tender is to be lodged.

#### **5.13. Variations to a Tender**

Where the Council seeks to amend or extend the closing date for a tender it will advertise the variation/s in the Mercury newspaper and on its website. If tender documents have been issued or a written tender has already been received, then the General Manager will notify the recipients of the tender documentation and any tenderer in writing of the variation/s to the tender.

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#### 5.14. Expression of Interest (EOI)

The Council may use an "Expression of Interest" process before it invites tenders. If so, it will advertise publicly the purpose and nature of the contract or project and the date by which it will invite tenders. The aim at the Expression of Interest stage is not to elicit tenders, but rather to assess the capacity of the respondents to undertake the work or project, and to refine the specifications. The Council will make the evaluation criteria for registration available to all respondents.

The Council will seek tenders from local business and industry if available.

The Council may invite tenders from some, all or none of the registrants, by the advertised date. If the Council does not invite tenders by that date, it will write to all registrants advising when tenders are to be invited. Respondents who are not invited to tender will be advised in writing. The Council will use this list of registrants to invite tenders for the advertised contract or project only.

#### 5.15. Invitation to Tender

The Council will offer the same tender documents to all those who respond to an invitation to tender. A copy of this Policy will be attached to all tender documents.

The Council may impose a fee for tender documentation related to the cost of printing the tender documentation. The Council will not impose any additional fee for tender documentation unless it refunds the fee to each tenderer who submits a conforming tender. The Council will not request a tender deposit. In all cases the Council will seek to minimise the cost to suppliers of participating in the tender process.

The tender documents will include the tender evaluation criteria and identify the order of importance accorded to the criteria.

In addition, the Council will ensure that prospective tenderers are provided with all relevant information, including:

- Details of the goods or services required;
- Details of the duration of the contract, including extensions;
- Any mandatory tender specifications and contract conditions; and
- A reference to the Council's Tender Policy.

If the Council gives advice, written or verbal, to a respondent clarifying the meaning of the tender documentation, it will give the same information to all other respondents in writing. The Council will keep a written record of any other verbal advice. The Council will respect the confidentiality of a respondent who discloses information which has

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commercial or intellectual property value. The Council will consider conducting a pre-tender briefing and may determine not to give additional information apart from the briefing.

Tenderers will generally be given a minimum of 21 days from the date on which tenders were invited in which to submit tenders. All tenders must be in writing. The submission period is determined by the nature of the tender and the Council will advise respondents in writing when it invites tenders if a longer or shorter submission period is to apply.

**5.16. Opening of Tenders**

The opening of tenders is not a public event. Tenders are to be opened jointly by two officers being either the General Manager, Deputy General Manager, Managers or Council officer.

All details are to be entered into the Tender Register and must be signed off by those opening the tenders. The Tender Register is to be stored in the safe.

**5.17. Acceptance or Rejection of Tender**

Late tenders will not be accepted.

Any proposal that does not conform to the tender conditions may be rejected as non-conforming. The General Manager will notify any tenderer of the rejection and the reasons for the rejection.

The Council will acknowledge receipt of all tenders in writing.

**5.18. Tender Evaluation**

The relevant Manager shall prepare an evaluation report on tenders received.

All tenders will be discussed by Council in a closed session of a Council Meeting.

**5.19. Award of Contract**

The Council may negotiate with tenderers to determine the award of the contract but must have regard to the scope of the invitation to tender at all times.

The Council will not trade the price of one tenderer against that of another tenderer. The Council will exhaust negotiations with one tenderer before beginning negotiations with another tenderer.

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The decision to award a contract will be made by the Council or its delegated officer. The Council will award the contract on the basis of the best quality and value for money for the community.

The Council will have regard to the written tender evaluation report and may also have regard to other factors impacting on the best quality and value for money outcome.

The Council Staff will promptly notify the successful tenderer by telephone and in writing and unsuccessful tenderers will be notified in writing.

## **5.20 Notification of Awarding the Contract**

Once the successful tenderer has been notified the Council Staff will promptly advise the unsuccessful bidders in writing of:

- The tender outcome; and
- The successful contractor.

All unsuccessful tenderers will be offered the opportunity of attending a debriefing session, and Council will document the proceedings of the debriefing sessions.

## **6. Complaints Process**

The Council will deal promptly with any complaints about its tendering process. Each complaint will be recorded in writing and the complainant given an opportunity to discuss his or her complaint with the General Manager or a delegated senior officer.

## **7. Exemptions**

The Regulations provide that Councils must publicly invite tenders for the purchase of goods and services with a value in excess of \$250,000.00 (ex GST).

The Council is committed to encouraging open and effective competition between suppliers with the objective of obtaining value for money and enhancing opportunities for local business.

However, Council may not issue a tender or use a quotation process where the goods and services sought relate to:

- An emergency if, in the opinion of the General Manager, there is insufficient time to invite tenders for the goods or services required in that emergency;

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- A contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- A contract for goods or services supplied or provided by another Council, a single authority, a joint authority or the Local Government Association of Tasmania;
- A contract for goods or services in respect of which the Council is exempted under another Act from the requirement to invite a tender;
- A contract for goods or services that is entered into at public auction;
- A contract for insurance entered into through a broker;
- A contract arising when the Council is directed to acquire goods or services due to a claim made under a contract of insurance;
- A contract for goods or services if the Council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of –
  - extenuating circumstances; or
  - remoteness of the locality; or
  - the unavailability of competitive or reliable tenderers;
- A contract of employment with a person as an employee of the Council.

## 8. Reporting

The Act states Council will publish in its Annual Report in relation to all tenders valued over \$250,000 (excluding GST) and all contracts for the supply or provision of goods and services valued at or above \$250,000 (excluding GST), awarded or entered in the financial year, including extensions granted:

- A description of the contract;
- The period of the contract;
- The periods of any options for extending the contract;
- The value of any tender awarded or, if a tender was not required, the value of the contract ex. GST;
- The business name of the successful contractor; and

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- The business address of the successful contractor.

Where an exemption has been granted from a tender process the following details will be reported in Council’s Annual Report:

- A brief description of the reason for not inviting public tenders;
- A description of the goods or services acquired;
- The value of the goods or services acquired; and
- The name of the supplier.

The General Manager will provide Council with a report of any instance where a purchase of a good or service is made where a public tender or quotation process is not used where an exemption applies from the tender process.

## 9. Confidentiality

Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.

## 10. Special Considerations

### 10.1 Budgetary Restrictions:

Generally, where staff initiates purchases, they are authorising the procurement and certifying that the purchase is within budget allowances and is a genuine requirement of their budget area. Regardless of delegated responsibilities and monetary limits that may be imposed on staff, procurement of goods and services are to reflect budgetary restrictions unless special authorisation has been granted by the General Manager or by Council.

Councils Purchasing and Payments Control Policy (2014-14) shall be read in conjunction with this policy.

### 10.2 Sensitive Information and Conflicts of Interest

Council employees, contractors, sub-contractors, consultants and elected members are reminded that the best interests of the Council are fundamental and are to be served at all times. Notifications of conflicts of interest (actual and perceived) are to be advised and recorded as early as possible. Disclosure of sensitive and confidential information, including prices, terms and conditions are strictly commercial in

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confidence and their unauthorised disclosure, particularly with a motive to provide personal financial gains or benefits is contrary to the principles of ethical behaviour and may result in dismissal, prosecution or other sanctions.

### **10.3 Disposals and Trade-In's**

The disposal or trade-in of obsolete assets is an area that can be open to criticism and one in which the possibility of unethical behaviour can be perceived and needs to be controlled with guidelines and processes that will prevent or lessen unfounded criticism or claims. All disposals, write-offs, cannibalisation and trade-ins are to be considered on a case-by-case basis and are to be authorised by the General Manager and recorded in a Disposals Register.

Disposals of a minor nature may be negotiated between the General Manager and a third party.

Disposal of assets of considerable value or high interest items will be subject to disposal either through a tender process or be traded-in as part of the procurement deal, whichever is the most cost-effective to Council.

Generally, Tenders and Trade-ins are to be managed independently by the Finance and/or Administration Section under the supervision of the General Manager. This approach should lessen the opportunities (whether real or perceived) for the leaking of expected prices and the unethical and illegal manipulation of returns to Council.

### **10.4 Disposal of Items to Staff, Contractors, Sub-Contractors, Consultants and Elected Members.**

Subject to the terms, conditions and provisions contained within this Policy, staff, contractors, sub-contractors, consultants and elected members are not excluded from tendering or applying for the purchase of items to be disposed of.

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