

Code for Tenders and Contracts

SECTION 1 - PURPOSE	3
SECTION 2 - OBJECTIVES.....	3
SECTION 3 - SCOPE	3
SECTION 4 - DEFINITIONS	3
SECTION 5 - PRINCIPLES.....	5
SECTION 6 - CODE OF CONDUCT.....	5
SECTION 7 - TENDERING PROCESS	6
7.1 Inviting Tenders	6
7.1.1 Regulatory Requirements.....	6
7.1.2 Open Tenders	7
7.1.3 Multiple-Use Tender	8
7.1.4 Multiple-Stage Tender	8
7.1.5 Standing Tender (Periodic Tendering)	9
7.1.6 Quotation (less than \$250,000)	9
7.1.7 Non-application of Public Tender Process	9
7.1.8 Local Preference	10
7.1.9 Amending or Extending a Tender.....	10
7.1.10 Supplier's Queries.....	10
7.1.11 Lodgement of Tenders.....	10
7.1.12 Tender Closing.....	10
7.2 Late Tenders.....	11
7.3 Disqualification of Tender	11
7.4 Tender Review Committee	11
7.5 Notification of Successful and Unsuccessful Tenders	11
7.6 Debriefing Unsuccessful Suppliers	11
7.7 Contract Extension.....	12
SECTION 8 - PREPARATION AND DOCUMENTATION	12
8.1 Planning the Tender Process.....	12
8.2 Tender Specification Document.....	12
8.3 Contract Document.....	13
8.4 General Conditions of Tendering.....	13
8.5 Alternative Tenders.....	14

8.6	Evaluation Criteria.....	14
8.7	Rise and Fall Provision	14
8.8	Risk Allocation	15
8.9	Management System (MS)	15
8.10	Regulatory Requirements (if applicable).....	15
SECTION 9 - MANAGING TENDER EVALUATION		16
9.1	General Principle	16
9.2	Evaluation Process	16
9.2.1	Tender Evaluation Panel	16
9.2.2	Evaluation Period	16
9.2.3	Confidentiality	17
9.2.4	Stages of Tender Evaluation	17
9.3	Evaluation Methods	19
9.4	Tender Qualifications	21
9.5	Request for Supplementary Information	21
9.6	Re-calling of Tenders.....	21
SECTION 10 - TYPES OF CONTRACTS.....		21
10.1	Lump Sum Price Contracts.....	21
10.2	Design and Construct Contracts.....	21
10.3	Schedule of Rates Contract.....	22
10.4	Standing or Periodic Construction and Supply Contracts	22
10.5	Service Contracts	23
10.6	Supply Only Contracts	23
10.7	Contract Inclusions.....	23
SECTION 11 - REPORTING REQUIREMENTS.....		23
11.1	Annual Reporting.....	23
11.2	Reporting to Council	24
11.3	Complaint Handling	24
SECTION 12 - TENDER COMMITTEE ROLE AND REPORT.....		24
12.1	Tender Committee Role.....	24
12.2	Report on Tenders.....	24

SECTION 1 - PURPOSE

The purpose of this Code for Tenders and Contracts is to provide a framework which directs best practice Tendering and Contracting processes to be adopted by the City of Launceston in line with the legislative requirements of Part 16 Division 2a of the *Local Government Act 1993* (the Act) and Part 3 of the Local Government Regulations (General) 2015 (the Regulations).

SECTION 2 - OBJECTIVES

To promote the following outcomes:

- Conform to all related legal requirements;
- Ensure probity, accountability and transparency in decision making;
- Guide responsible decision making that delivers value for money outcomes
- Provide open and effective competition amongst potential suppliers to the Council;
- Provide reasonable opportunities for local business and industry.

SECTION 3 - SCOPE

This Code for Tenders and Contracts applies to all Tenders managed by the City of Launceston..

SECTION 4 - DEFINITIONS

Allocation of Work Criteria	The decision making hierarchy that determines which supplier is approached first for periodic or panel supply requirements.
Alternative Tender	An alternative tender is one, which complies with the intent of the project and meets the objective or the desired outcome of the tender specification.
Code	This Code for Tenders and Contracts.
Collusive Tendering	Agreement between Suppliers as to who should be the successful Supplier. Agreement between Suppliers for payment of money or reward to unsuccessful Suppliers by the successful Supplier. Agreement between Suppliers to fix prices.
Conflict of Interest	Is described as <i>"a set of circumstances where one`s professional judgment or actions regarding a primary interest, could be unduly influenced by a secondary personal interest."</i> A conflict of roles is a circumstance where a person acts in two capacities in more than one organisation.
Council or Principal	City of Launceston (Launceston City Council).
Expression of Interest	A process used for market testing and for registering interested parties.
Intellectual Property	Invention, original design, practical applications of intellectual activity of the industry and all other rights protected by law through copyright.
Multiple-stage Tender	A process by which Suppliers are evaluated through stages. It

	involves calling for expressions of interest, short-list prospective Suppliers, then invite the short listed Suppliers to submit a full priced tender (This process is also called pre-qualification of Suppliers).
Multiple-use Register	Through an expression of interest process invite Suppliers to register with the City of Launceston for the supply of particular categories of goods or services (This process is also called pre-qualification of Suppliers).
Open Tender Process	Call tenders by placing an advertisement that is open to any supplier in the newspapers and through any other method that is generally available.
Standing Tender	Through an open tender process from which a single Supplier or multiple Suppliers are selected for a specified period to provide specified goods or services during that period without the need for further tender process.
Supplier	Any party submitting a tender. Eg: Suppliers, Consultants, Tenderers, Contractors, Material Suppliers, Financial Institutions, Auditors, and Service Providers etc. – all are referred to as Suppliers.
Tender	A price, bid or offer lodged in response to an invitation or request for tender including all supporting documents that addresses the requirements of the tender specification.
Tender Document	The document that sets out the Council's requirements and referred to as the tender specification.
Tender Evaluation Panel	City of Launceston officers and/or agents who have been assigned to assess the tenders and to make recommendation to the Tender Review Committee.
Tender Box	The point of lodgement of tenders includes the Council's email address where it is stated in the tender specification.
Tender Period	The period from the date of advertisement to the date of closing of tenders. Tender period must be a minimum of 14 days.
Tender Qualification	A tender subject to a condition being met.
Tender Review Committee	A special committee established by Council under section 24 of the <i>Local Government Act 1993</i> which has the delegated authority to accept or reject the recommendation of a Tender Evaluation Panel (refer to 11-PI-002 Tender Review Committee Policy).
Value for Money	Achieving the best overall value outcome to the City of Launceston.

SECTION 5 - PRINCIPLES

This Code has been developed in order to have a transparent set of guiding principles that the City of Launceston will apply to all Tenders and Contracts, in addition to complying with the requirements of the *Local Government Act 1993*. The principles the City of Launceston will adopt are given below:

1. Compliance with the Act and Regulations, and demonstrate financial responsibility, transparency and probity in all decision outcomes
2. Procurement value for money – achieving the desired outcome at the best possible overall value to the City of Launceston, and the community.
3. Open and effective communication – ensuring that the tendering process is impartial, open and encourages competitive offers.
4. Provide enhancement of the capabilities of local business to supply services to the City of Launceston.
5. The Council will not participate in any form of collusive practice by suppliers.
6. The general conditions of tendering shall be the same for each supplier on any particular tender to ensure that consistent practices are adopted by the City of Launceston.
7. The evaluation of tenders shall be based on the selection criteria clearly stated and defined in the tender specification.

SECTION 6 - CODE OF CONDUCT

The following Code of Conduct applies to the City of Launceston tender process:

1. Lobbying from any external parties with a view to influencing the tender outcome, in any form (including social media platforms) from Suppliers, aldermen or employees, can result in the tenderer being excluded from the tender;
2. Establish and maintain procedures to ensure that all potential Suppliers are provided with the same information relating to the tenders and quotations and are given equal opportunity to meet the requirements;
3. Establish and maintain procedures to ensure that fair and equal consideration is given to all tenders and quotations received;
4. Promote honesty and equity in the treatment of all Suppliers;
5. Provide a prompt and courteous response to all reasonable requests from Suppliers, which includes the provision of any additional information to all tenderers;
6. Seek to minimise the cost to Suppliers in the tender process;
7. Protect commercial-in-confidence information of Suppliers;
8. Provide a clear statement that soliciting or accepting remuneration or other benefits from a Supplier for the discharge of official duties is not permitted, which can result in a tenderer being excluded from the tender process and is not in accord with the Councils employee code of conduct.

9. Establish processes that avoid situations where private interests of City of Launceston employees may conflict with official duties and provide for the prompt declaration of any Conflicts of Interest to the responsible director that do arise; and
10. Avoidance of any real or perceived Conflicts of Interest.

The circumstance of Conflict of Interest will also be considered where a **strong perception** of such conflict exists. Some examples of Conflict of Interest are:

When an individual has the opportunity to use their position for personal gain, or to benefit another party with whom the individual has a personal interest.

Where an external interest may inappropriately influence the way in which an individual carries out their responsibilities to their principal employer.

Where an individual in a decision making role within their employment, has a personal or private business relationship with the same external suppliers or contractors engaged under their principal employment capacity.

Purchasing and contract officers must advise the responsible departmental manager or director of any transaction where a real or perceived conflict of interest may exist. The responsible manager must immediately take appropriate action to remove such conflict of interest. Such appropriate action includes, complete disclosure and recording the Conflict of Interest and the action taken (refer to 22-PI-029 Acceptance of gifts and benefits by staff policy).

Likewise if a supervisor or manager finds themselves in a similar situation, this must be acknowledged and reported to their director and action taken to remove the conflict of interest.

SECTION 7 - TENDERING PROCESS

7.1 Inviting Tenders

7.1.1 Regulatory Requirements

The *Local Government Act 1993*, section 333A states:

- 1) A Council must invite tenders for any contract it intends to enter into for the supply or provision of goods or services valued at or above the prescribed amount.
- 2) Tenders must be invited and made in a prescribed manner.
- 3) Subsection (1) does not apply to prescribed situations or prescribed contracts (see clause 7.1.7).

Section 333B states a Council must adopt a code relating to tenders and contracts under this Division.

The prescribed form of tenders is set out in the Regulations 2005, Part 3 – “Tendering and Contracting”, amended on the 1st July 2015, which states among other things:

- 1) For the purpose of section 333A(1) of the *Local Government Act 1993* the prescribed amount is \$250,000 (excluding GST).
- 2) A tender is to be publicly invited by one of the following:
 - An open tender under regulation 24;
 - A multiple-use register under regulation 25;
 - A multiple-stage tender under regulation 26.
- 3) A Council, through a public tender process, may establish a standing contract in which a single Supplier or multiple Suppliers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process.

The Regulation also stipulates that the Council must not split a contract into two or more contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders. It also outlines procedures for extending contracts and requires reporting in the Council's Annual Report.

7.1.2 Open Tenders

Open tenders are called by publishing at least once an advertisement in a newspaper circulating in the municipal area, usually on Saturday. The advertisement should include at least the following details in order to comply with the *Local Government Act (1993)* and the Regulations - 1 July 2015:

- A brief description of the nature of the services required;
- Tender closing time and date;
- The place or method of lodgement of tenders;
- Where and how tender documents can be obtained;
- Contact person and telephone number; and
- Contract number or EOI number.

All City of Launceston Tenders are advertised both in a local area newspaper and via an electronic online Tendering system. The tender documents are available for download from the electronic online tendering system.

The period within which a tender is to be lodged must be at least 14 days after the date on which the advertisement is published.

All Council issued Tender documents must refer to and observe this Code for Tenders and Contracts. (HLPr-005)

The City of Launceston will encourage local business to participate in all relevant tender processes where practical to do so.

Recommendations to accept or reject a tender for all open tenders must be submitted to the Tender Review Committee. However in some special circumstance the recommendation to accept or reject the tender is submitted to Council. The Tender Review Committee Members should be advised of this necessity prior to submitting the agenda item to Council.

7.1.3 Multiple-Use Tender

Multiple-use register is also called pre-qualification of Suppliers and the Suppliers are registered for a specific category of work/services. Multiple-use register is used to classify Suppliers in accordance with their skills, financial capacity, experience and performance. This process is considered as the industry best practice model in the selection of successful Suppliers.

The process involves calling for expressions of interest from interested applicants for registration in the multiple-use register for a 2 year term by publishing at least once an advertisement in a newspaper circulating in the municipal area.

The advertisement detail will be as above in clause 7.1.2.

Applicants are required to provide evidence and documentation to demonstrate the applicants compliance with the criteria set out in the expression of interest. The Tender Evaluation Panel selected make the assessment of eligibility for registration. The weighted attribute system must be used in the assessment process.

Recommendations are put forward by the Tender Evaluation Panel to the Tender Review Committee for acceptance and registration, refer clause 12.

A calling for tenders is still required within the Multiple Use Register depending on the specific project value and in accord with the prescribed amount.

The City of Launceston will permit a Supplier to apply for inclusion on the multiple-use register at any time unless the Supplier was unsuccessful at the time of the Tender, or has made an unsuccessful application within the last 12 months.

7.1.4 Multiple-Stage Tender

When the market knowledge is unknown to the Council and for large or complex projects, the Council may utilise a multiple-stage tendering process. Multiple-stage tendering process will only be used for single large and/or complex projects.

The advantages in multiple-stage tendering process include the following:

- 1) To gain market knowledge;
- 2) Short-list qualified Suppliers so that only experienced and capable Suppliers that met the criteria are considered. Tendering cost is minimised for others who are not short listed;
- 3) Obtain industry input; and
- 4) There are benefits which cannot be obtained by researching the market through conventional means.

The tender process will be in two stages. Stage 1 includes calling expressions of interest (EOI) from interested organisations by publishing at least once, an advertisement in a newspaper circulating in the municipal area.

The advertisement detail will be as above in clause 7.1.2.

Short listed applicants will be selected from those who have lodged expressions of interest and who have met the evaluation criteria. Stage 2 will involve inviting the short listed applicants to lodge full priced tenders.

A Tender Evaluation Panel makes the assessment. The weighted attribute system will be used in the assessment of stage 2 process. Recommendations are then put forward to the Tender Review Committee. See clause 12.

7.1.5 Standing Tender (Periodic Tendering)

The City of Launceston may utilise a standing tender process in which one or more Suppliers are engaged 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 system of contracting is also called periodic contracting.

A standing tender is established in the same way as for an open tender process where the specification and scope of the tender describes the intent of the standing contract and the conditions of its use. Schedule of rates are obtained from Suppliers by means of an open tender process. An "allocation of work" criteria is advised with each successful periodic tender.

The procedures described in clause 7.1.2 should be adopted when calling tenders. One or more Suppliers are selected from the open tender process and recommendation put forward to the Tender Review Committee. The recommended validity period for a Standing Tender is 3 years. Selected Suppliers can be used to provide the specific goods or services without the need for further tender process.

7.1.6 Quotation (less than \$250,000)

For goods or services valued less than \$250,000 the Purchasing (Non-Tendered) procedure 11-HLPr-001 will apply.

7.1.7 Non-application of Public Tender Process

In accordance with section 27 of the Regulations, the requirement for public tenders process does not apply for the followings situations:

- a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders in that emergency;
- b) is supplied or provided by, or obtained through an agency of a State or the Commonwealth;
- c) a contract established by another Council or Local Government Association of Tasmania or other Local Government Association in another State or a Territory;
- d) when Council is exempted under another Act;
- e) a contract entered at public auction;
- f) a contract for insurance entered into through a broker;
- g) a contract arising from a claim made under contract insurance;
- h) Council resolves by absolute majority because of;
 - extenuating circumstances
 - the remoteness of the locality
 - the unavailability of competitive or reliable tenderers and
- i) a contract for employment with a person as an employee of the Council.

Instances of such non application of the tender process must be included in the Council's Annual Report.

7.1.8 Local Preference

Purchasing from local suppliers is given consideration, where the items or services meet the quality, lead time and "fit for purpose" requirements. There is no set allowance in favour of local suppliers. Local suppliers are invited to "outline how their supply of goods/services will provide a positive impact on the local industry" and as such will be considered. Overall value to the City of Launceston remains the overarching principle.

With respect to Section 5. Point 4 "Provide enhancement for the capabilities of Local business", this means that where local capacity exists, the council will encourage local market participation in the Tender process. It does not mean offering a financial advantage or showing preferential treatment to a Local supplier.

7.1.9 Amending or Extending a Tender

If for any reason, there is a need to alter the tender specification document once it has been issued, an addendum will be sent to all Suppliers that have been issued with the tender specification document.

7.1.10 Supplier's Queries

Pre-tender queries are handled by either correspondence or by a pre-tender conference. The pre-tender conference method is normally adopted for most of City of Launceston contract works and the conference is usually held at the work site. All Suppliers are invited to attend, although it is not a compulsory requirement.

During the conference, Suppliers are given a brief description of the works or services required. Attention is drawn to any queries from Suppliers and appropriate responses provided. Within 7 days after the conference, the Project Manager sends to all Suppliers, whether present at the conference or not, a full set of meeting notes of the conference.

Suppliers may ask for clarification of the tender specification document during the pre-tender period. The clarification must be made to all Suppliers in writing without quoting the source of the queries.

7.1.11 Lodgement of Tenders

All Tenders should be lodged with the City of Launceston Tenderlink portal using <https://www.tenderlink.com/launceston>, or another nominated electronic system

No Tenders will be presented in hard copy format to the City of Launceston` physical address, unless it is bulky supportive information that cannot be lodged electronically via Tenderlink. Details of supporting documents can be included and these must clearly state the associated Tender reference number.

7.1.12 Tender Closing

- Tender closing days and times will be Tender specific, but each Tender will be open for at least 14 days from the date of advertising.
- Consistent with Council's obligations under the *Right to Information Act (2004)* no detailed information provided in a tender by a Supplier is divulged to another Supplier at any stage during the tender process or after it has concluded.

- The final outcome of the tender will be reported in a Council meeting including the value of the tender.

The final outcome of the tender will be reported in a Council meeting including the value of the tender accepted.

7.2 Late Tenders

Any tenders received after the closing time and date will not be considered.

7.3 Disqualification of Tender

Suppliers should observe all relevant statutory and legal requirements when completing the tender. Suppliers engaged in collusion with other Suppliers will be disqualified from tendering.

Canvassing City of Launceston personnel or elected representatives to promote acceptance of a tender by any Supplier may also cause disqualification. Suppliers may ask for clarifications of the tender specification and these should be addressed to the nominated contact officer stated in the respective tender document.

7.4 Tender Review Committee

A Tender Review Committee (TRC) has been established as a Special Committee under Section 24 of the *Local Government Act 1993*. It consists of 4 Aldermen. A Director from the Executive Management Committee takes part in the tender review meetings providing advice to the TRC. The Committee Secretary is provided by the Infrastructure Directorate. The operating procedures and the delegated powers of the Committee are given in the City of Launceston Tender Review Committee Policy Number 11-PI-002. The Committee will consider all tenders for goods and services over \$250,000 (excluding GST) other than those referred to Council.

The Committee Secretary will arrange tender review meetings. The Committee will normally require at least 7 days' notice of a forthcoming meeting. Tender Reports must be submitted in the required format to the Committee at least 4 clear working days prior to the meeting.

7.5 Notification of Successful and Unsuccessful Tenders

A letter of acceptance and a formal instrument of agreement will be issued to the successful Supplier after having obtained the necessary approval. The unsuccessful Suppliers will then be notified in writing.

7.6 Debriefing Unsuccessful Suppliers

Debriefing session will only be provided if requested by any unsuccessful Supplier. The debriefing session will address the following issues:

- a) Their performance against the selection criteria;
- b) The strength and weakness of their tender.

The debriefing should be conducted by the tender evaluation panel and document the proceedings which should include the following:

- a) Date and time of the de-briefing;
- b) The person/s attended and the company name;
- c) The information provided;

- d) Any issues raised by the tenderer;
- e) Detailed of any information requested but not disclosed; and
- f) Recommendation for future action.

7.7 Contract Extension

The Council may extend a contract entered into by tender under the following conditions:

- a) If the specific contract conditions provides for an extension of contract; or
- b) By a decision of the Council made by absolute majority.

The Council is mindful when such extensions of contract are granted, that the principles of open and effective competition are adhered to.

SECTION 8 - PREPARATION AND DOCUMENTATION

8.1 Planning the Tender Process

To achieve the best value outcomes, a planned approach to the tender process is essential. An overall program covering all major phases of the tender process needs to be prepared. The key steps involved in this phase are:

- Establish procurement plan
- Identify stakeholders
- Determine appropriate contract to use
- Determine the correct evaluation criteria, weightings and evaluation panel members
- Prepare project specifications
- Prepare bill of quantities (if applicable)
- Review design drawings (if applicable)
- Establish supervision requirements
- Establish risk allocation
- Complete tender specification document
- Determine dates for calling and closing tenders
- Conduct tender assessment and prepare recommendation
- Obtain Tender Review Committee approval
- Award contract
- Advise and debrief participants

When determining the tender period, reasonable time is to be provided for Suppliers to prepare their tenders taking into consideration the size, complexity, number of suppliers involved and the location of the project. At least 14 days tender period must be given.

8.2 Tender Specification Document

The tender document consists of some, or all of the following:

Mandatory Items

- All Tender return schedules.
- Form of Formal Instrument, or Deed of Agreement
- Alternative tender Form, (if applicable)
- General Conditions of Tendering (includes tender assessment criteria)
- General Conditions of Contract and Annexures
- Special Conditions of Contract
- General Specifications

Tender Dependent Items

- Schedule of Technical Data
- Operating and Maintenance requirements and costs
- Schedule of Key Personnel
- Schedule of Preliminary Planning Information
- Construction methodology and Traffic Management
- Service proposal (usually from consultants, financial organisations)
- Schedule of proposed Sub-Contractors/Suppliers
- Road Reserves Permit
- Safety policies and safety records
- Project Specific Specifications
- Principal's Project Requirements
- ISD Construction Preliminaries
- Detailed design drawings
- Previous studies or investigations
- Geotechnical reports
- Licenses and/or Agreements
- Allocation of Work Criteria. (Where applicable)

The tender document must clearly state the form of contract (schedule of rates, lump sum, unit price or other).

8.3 Contract Document

All Tenders and Contracts issued on behalf of the City of Launceston must be a Council approved Tender Package document which conforms to State Government and Council business requirements. These include both Australian Standard contracts and Council generated contracts depending on the requirement.

8.4 General Conditions of Tendering

The General Conditions of Tender can be viewed at the Council's web site www.launceston.tas.gov.au. For Conforming and Alternative Tenders refer to the General Conditions of Tender, section 3.1

A Conforming Tender means a Tender which:

- a) Is in the form required by the Tender Package
- b) Has completed and executed all the Tender Return Schedules relevant to the offer, and in the manner required; and
- c) Complies with the lodgement requirements
- d) Adheres closely to the project detail and required specifications

A Non-Conforming Tender is a Tender which does not meet the criteria specified above:

The Principal may, in its sole discretion, consider a Non-Conforming Tender after;

- a) Taking into account the nature and extent of the non-conformance
- b) Considering whether a Conforming Tender has been submitted by another Tenderer, or

- c) Considering whether the acceptance or rejection of a Non-Conforming Tender creates a corresponding advantage or disadvantage to the Tender process
- d) Subject to compliance with Section 5 Principles. Paragraph 7

8.5 Alternative Tenders

An alternative tender is one which complies with the above conditions for a conforming tender, but does not comply with the detailed scope of work. However, it complies with the intent, and meets the objective or the desired outcome of the tender.

The Council will deem any Tender submitted with attached conditions, or qualifications, as an alternative tender since it represents a variation from the issuing document standards and terms.

To be eligible for consideration, the alternative tender must contain all the technical information, costs and should identify all the proposed deviations from the tender document. The alternative tender will only be considered if it is suitable and acceptable for the proposed work.

It is not a requirement to submit a conforming tender with the alternative tender, however alternative tenders should be identified as such, and acceptance of any alternative tenders must be consistent with the principle stated in Section 5 paragraph 7.

8.6 Evaluation Criteria

The evaluation criteria and evaluation methodology to be used in the assessment of tenders must be included in the tender specification document. The criteria attributes should be tailored to the requirements of the project and weighted accordingly. The criteria should be relevant, important, and measurable.

No other criteria other than those included in the Tender Package document should be used. If a weighted attribute method of evaluation is chosen, the weightings should be made available to all Suppliers.

8.7 Rise and Fall Provision

Only if agreed and allowed for, a rise and fall adjustment to compensate for variations in labour, material and other costs can be applied. The actual method engaged to determine the increase may vary from Tender to Tender, but one example of such adjustment is , based on variations in the quarterly index figures compiled by the Australian Bureau of Statistics in the Consumer Price Index (CPI) for the City of Hobart. Price adjustments will be calculated using the following formula:

$$\text{New Price} = \text{Tender Price} \times \frac{\text{Current Index}}{\text{Base Index}}$$

Where,

$$\text{Current Index} = \text{CPI figure for Hobart for the quarter just ended prior to adjustment}$$

$$\text{Base Index} = \text{CPI figure for Hobart for the quarter just ended prior to calling tenders}$$

The rise and fall adjustment will apply on a 12 monthly basis for contracts exceeding 24 months of duration. Quarterly adjustments will apply for refuse and recycle collection

service contracts. No changes will be made to the price adjustment index once the contract has been awarded.

Suppliers may submit alternative price indices if CPI adjustment is inappropriate for the contract. This must be done at the time of tendering.

8.8 Risk Allocation

A risk may be defined as the probability of an event occurring and the consequence of the event, if it does occur. Some examples are level of geotechnical information given, changes in documents, the extent of design details provided, scheduling constraints, physical and environmental conditions, regulatory constraints, time of completion, cost, safety etc.

The following recommendation from the report **NO DISPUTE** published by NPWC and NBCC is applicable when allocating risk:

“Obligations and/or risks within the control of the Principal should be borne by the Principal. Similarly, obligations and/or risks within the control of the Provider should be borne by the Provider.”

Risks on specific projects that are beyond the control of either parties should be discussed beforehand to mutually agree on how to address, but as a general rule, will be shared between the Council and Contractor.

8.9 Management System (MS)

As a general requirement, a third party certified management system will be expected for projects of value greater than \$1,000,000, depending upon the complexity and risks involved. The project management team in consultation with the relevant Director will undertake a risk analysis and determine this requirement on a project specific basis.

If it is deemed that a third party accredited quality management system is not required, contractors will be required to demonstrate the capabilities of their "in house" quality management systems, and such will need to be to the satisfaction of the City of Launceston representatives.

8.10 Regulatory Requirements (if applicable)

Ensure that all regulatory requirements have been met before calling tenders. Some examples of regulatory requirements are as follows:

- Planning permit
- Building permit
- Road closure permit
- Approval from Department of Primary Industries, Water and Environment
- Dredging permit
- Dam permit under the Water Management Act 1999
- Environment Management Permit
- Permit or approval from State Authorities (if required)

Failure to obtain these permits may lead to delay in completing the works and City of Launceston may incur additional cost.

SECTION 9 - MANAGING TENDER EVALUATION

9.1 General Principle

Any tender which does not comply with the tender document as advertised will be considered as Non-conforming and treated in accord with section 8.4. .

The tender evaluation process must be conducted formally and fairly with the reasons for selection and reasons for non-selection clearly documented by the tender evaluation panel. The City of Launceston reserves the absolute right not to accept the lowest, highest or any tender. The Tender Evaluation Panel needs to be convinced that the tenderer, fully understands the whole scope or the requirement of the Tender documentation.

9.2 Evaluation Process

9.2.1 Tender Evaluation Panel Mandatory

The composition of the Tender Evaluation Panel (consistent with the value and complexity of the document) should include appropriate technical input , who is responsible for the design specifications and operation, plus a person experienced with contract law and the project manager. The project manager, in consultation with the Manager Strategic Procurement (depending on the complexity of the tender), selects the Tender Evaluation Panel.

The Tender evaluation panel must be a minimum of three council officers, with one being external to the directorate tendering. If using external contractors to form part of the evaluation panel, then a minimum of 2 council officers must be included plus the external members.

It is preferred that panel members evaluate independently, then produce an aggregated or averaged final score.

A conflict of interest declaration should be made by the members of the Tender Evaluation panel before proceeding with the evaluation.

9.2.2 Evaluation Period

It is essential that tenders are assessed thoroughly. Tender evaluation should be completed within about 4 weeks of receiving tenders for simple contracts, but it may take longer for more complex contracts. As a guide, the tender evaluation period should not exceed the tender period. However, for complex contracts such as an alliance contract, design and construct contract, long term maintenance contract or service contract it may take up to 1 to 2 months, but the evaluation and acceptance of the tender must be completed within the tender validity period of 3 months.

9.2.3 Confidentiality

Tender evaluations should be strictly confidential. All contact with the Suppliers should be confirmed in writing through a delegated officer of the Tender Evaluation Panel. Members of the Tender Evaluation Panel should not discuss with any other person outside the tender evaluation panel issues regarding the evaluation. The leader of the Tender Evaluation Panel may obtain advice from specialists to assist in the tender evaluation process.

9.2.4 Stages of Tender Evaluation

The evaluation process usually consists of the following stages:

- 1) Conformity review
- 2) Requirement evaluation
- 3) Commercial evaluation
- 4) Post Tender Interview (If required)
- 5) Risk analysis
- 6) Final evaluation

The time and extent of the process will depend on the complexity of the project.

Conformity Review

This process involves identifying conforming, non-conforming and alternative tenders, confirm any details, that require clarification, and treat the submissions accordingly. Ensure that all listed questions are adequately answered. Refer Sections 8.4 and 8.5

Requirement Evaluation

The process may vary depending on the size and complexity of the project. The evaluation involves assessing the submitted information against the tender requirements as stated in the tender document.

Some examples of issues to be considered are:

General items for evaluation

- a) The ability to fulfil the supply
- b) Supplier's experience
- c) The price or schedule of rates
- d) The quality of the item/service offered
- e) The availability of the item/service offered

For Construction and/or Service requirements

- a) Proposed plant and equipment
- b) Key personnel proposed and their experience
- c) Sub-Contractors/Suppliers
- d) Construction methods and procedures
- e) Manufacturing details
- f) Schedule of technical data
- g) Operation and maintenance issues
- h) Environmental management plan
- i) Workplace Health and Safety Plan

- j) Preliminary design details
- k) Performance indicators/objectives
- l) Method statements
- m) Program of works

It is suggested to develop checklists based on the above schedules and use them in the assessment process.

Commercial Evaluation

Commercial evaluation is determining the total financial cost of each Supplier's offer to the City of Launceston. The results of the commercial assessment will be incorporated into the final assessment, plus the ability of the supplier to be able to deliver the contract

Commercial evaluation involves assessing the following schedules:

- 1) Price or Schedules of rates/prices
- 2) Priced bill of quantities
- 3) Any other pricing schedules
- 4) Schedule for price variation
- 5) Schedule of labour and plant/equipment rates
- 6) Schedule of imported items
- 7) Other commercial schedules such as form of security
- 8) Insurance policies
- 9) Life cycle costing
- 10) Exchange rate if applicable
- 11) Offsite and onsite overheads (expressed in percentage)
- 12) Rise and fall variation (If applicable)

Check for arithmetical errors. Where errors are found, these are to be returned to the supplier for clarification and correction. Changing tendered rates or prices after closing of tenders is not permitted. Errors encountered in submitted documentation can be seen as Non-conforming and treated according to section 8.4

A request for component, labour or subcontracted services profit margins may be required, depending on the project. Long-term Tenders should be evaluated by examining the total cost to the Principal over the expected service and warranty life.

Post Tender Interview

For complex tenders it is recommended to shortlist at least 2 or 3 suppliers from the preliminary evaluation for an interview. Give them at least 1 week notice and provide an agenda for the interview. This should be conducted before finalising technical and commercial evaluations.

During the interview Suppliers are required to demonstrate their understanding of the project and the tender process and to discuss any clarifications raised by the tender evaluation panel. Where 2 or more Suppliers are to be interviewed, each interview is to be conducted separately. Any agreed outcomes should be documented and added as addendums to the contract. The tender evaluation panel will assess the outcome of the interview and document the findings for the tender report.

Risk Analysis

On large or complex service tenders, a risk analysis should be carried out. This will highlight possible adverse consequences for the Council such as poor quality of work and possible lack of performance by the Contractor. The risks can be categorised under the following broad headings:

- 1) Failure to meet programme completion dates
- 2) Failure of temporary or permanent works
- 3) Lack of performance of mechanical or electrical plant and services
- 4) Effect of lack of collaboration with others
- 5) Extent of supervision required by Council
- 6) Difficulty in achieving desired public relations
- 7) Failure to achieve the desired environmental outcome
- 8) Strength and weakness of the Supplier
- 9) Failure to deliver required service outcomes
- 9) Financial risk

The risk analysis in selecting the preferred Supplier will determine whether the risk is affordable by the Principal if it does occur or should the next preferred Supplier be assessed.

Final Evaluation

The tender evaluation panel will make a final evaluation of the tenders taking into consideration the assessment of the above 5 stages. A tender report is then prepared with a recommendation for consideration by the Tender Review Committee. The format for tender report is referred to in clause 12.

The selection of, and the manner of application of the evaluation criteria, weightings and methods of scoring, will be at the sole discretion of the Council. The Council will not be liable to any tenderer for the application or non-application of any evaluation criteria or weighting.

9.3 Evaluation Methods

Weighted attribute method

This is done in 2 stages. The objective in this process is to obtain the best value for money tender.

Stage 1

In the first stage there is mandatory criteria which must be satisfied by the Suppliers for further consideration. Tenders, which have satisfied the mandatory criteria, are advanced for further evaluation under stage 2. All other tenders are rejected.

Stage 2

The second stage examines the relative merits of the technical and project specific proposals submitted with the tenders. This is the preferred criteria and is given a score based on the submitted proposals and Suppliers previous performances.

This process is called evaluation by weighted attribute method. In this method a set of selection criteria specific to the project are determined prior to the calling of tenders. These attributes are weighted based on their relative importance to the project, and are scored accordingly.

A proportionate score out of 10 is given against the requirements represented by the evaluation attributes. Scores of 10 can be given if the supplier matches exactly the tender attributes. Decimal points can be used to differentiate Suppliers.

The point scores are then multiplied by the weighting factor to determine the attribute scores. The total of the attribute scores for each tender is then calculated. A separate total of non-price scoring, and price scoring is to be shown in the evaluation report.

In assessing the price scores, the lowest priced tender is always given a point score of 10. All other prices are valued relative to the lowest tender price (that is the lowest price divided by other tender prices and multiply by 10). The point scores are then multiplied by the weighting factor to determine the price attribute scores.

If two or more different products are compared or the outcomes require different operating and maintenance costs and different replacement periods, it is important that a discounted value analysis is carried out and this discounted value is used in the calculation of the total cost.

The total score is determined by adding the non-price score and the price score.

The highest scored tender is considered the most advantageous and gives the best overall value for money, and that tender is recommended for acceptance. Alternatively value for money can be determined by dividing the non-price scores by the tender prices. The tender which gives the highest overall value for money is recommended for acceptance.

In **very rare** circumstances the tender evaluation panel may form the opinion that the highest scored tenderer will not produce the best outcome. Alternatively the scoring may be so close that the ranking of tenders is not decisive. In these circumstances the responsible director will be advised and requested to endorse a recommendation. This recommendation would then be taken to the Tender Review Committee.

Criteria for Direct Negotiations

In accord with the published General Conditions of Tender, the City of Launceston reserves the right to undertake negotiations with any Tenderer when it deems fit in accord with the following circumstance:

- When an appropriate competitive process has not produced an offer satisfactory to the Council.
- The price of the respective submission is considered above the market price, based on market knowledge, or the average of price submissions
- The price of the submission reflects significant increases over previous periods for similar goods or services, or is greater than a related CPI increase
- It is felt that value for money is not being achieved with the current submissions
- The submitted prices are significantly higher than budgeted costs

The decision to negotiate will be a discussion, comprising of the evaluation panel, the relevant director and the Manager of Strategic Procurement. If however the direct negotiation would lead to a substantial variation to the original tender, a new tender process is to be adopted.(Refer section 8.4 General Conditions of Tender.)

The process of negotiating with any Tenderer is in no way an indication that they are the preferred Tenderer unless this is explicitly conveyed.

9.4 Tender Qualifications

Any submitted qualifications which are unacceptable, should be determined as early as practicable. The particular Supplier should be given the opportunity of withdrawing the qualifications in writing but without alteration to the tender price. If no such confirmation is received in writing, then the tender should be treated in accord with sections 8.4 and 8.5.

9.5 Request for Supplementary Information

The tender evaluation panel may wish to seek supplementary information from all Suppliers or from the short-listed Suppliers. The purpose of requesting supplementary information is to clarify the information submitted with the tender and not for calling for new information. Only the minimum information required for clarification should be obtained. Any new information provided by a Supplier other than that requested by the Tender Evaluation Panel should be disregarded and return to the Supplier.

It is important to ensure that no Supplier is given any particular advantage in this process.

9.6 Re-calling of Tenders

The City of Launceston reserves the right to cancel and issue new tenders if it is deemed necessary.

SECTION 10 - TYPES OF CONTRACTS

10.1 Lump Sum Price Contracts

Lump sum indicates that the Contractor must execute the contract works for an all-in-one price, which doesn't subsequently change except as a result of variations to the contract or change in scope of work.

This type of contract is best suited for projects that have been fully and clearly defined and detailed. The Suppliers are required to make their own assessment of the quantities of the work and accept the risks before submitting a fixed price tender. Project Management and Design Services also will fall under this category.

10.2 Design and Construct Contracts

This type of contract is also referred to as a Turnkey Contract and often involves combining design, supply of material and construction and is let as one contract. The specifications will have a detailed section called the Principal's Project Requirements. The Principal's Project Requirements generally defines the outcome required and the functional brief of the required product/asset.

The main advantage of this type of contract is that the risk associated with the function of design and documentation is transferred to the Contractor. It also has the potential to

reduce the time of completion. The disadvantages can be higher tender prices due to higher risk levels taken by the Contractor. There is a potential for a low quality product due to the risk associated with specifying a functional brief.

When design and construct contracts are called, avoid Suppliers having to provide undue amounts of design and documentation prior to acceptance of the tender. This can be achieved by initially calling for expression of interest, short-listing 2 or 3 Suppliers and requesting for preliminary design and documentation from these short-listed Suppliers.

10.3 Schedule of Rates Contract

This is the standard form of contract, in which a completed design and bill of quantities are provided.

The works are broken down into as many individual tasks as necessary together with the quantity of each item involved. Suppliers are requested to provide rates for these tasks. The contract price is determined by applying the schedule of rates to the final measured quantities.

The Principal carries the risks for unspecified works. It results in competitive tender prices and reduces disputes during construction. However, there will be an increased cost of preparation of tender documentation and providing contract administration services. There are limitations on the amount of work, which can be added or deleted without affecting the schedule of rates.

10.4 Standing or Periodic Construction and Supply Contracts

This type of contract is used for supply of materials, plant hire and minor works such as kerb and channel, footpath, pit construction, minor pipe works, asphalt sealing, placing pavers, etc. with minimum design.

Unit rates are obtained from an open tender process.

Usually 2 or more Suppliers are selected and registered for any one construction or supply contract. The duration of the contract is usually up to three years.

The works are awarded to the selected Suppliers on a shared basis. The amount of work shared between the selected Suppliers is based on their tendered rates or the allocation of work criteria. The lowest priced supplier will be given the first opportunity to accept or reject the work. At short notice, (1 working week), the selected Suppliers are requested to carry out the task at the agreed rates.

Regulation 23(2) identifies periodic contract as Standing Contract.

10.5 Service Contracts

These types of contracts cover professional services such as financials, advertising, marketing, legal, software packages, investigation, asset maintenance, after hour services, IT and computer purchase, consulting services etc. In general they are outcome or performance based contracts. The tender document requires the Suppliers to demonstrate in their tender submission how those project outcomes would be achieved.

The Principal's Project Requirements should clearly specify the required outcomes and also should identify any constraints or risk associated with the project.

10.6 Supply Only Contracts

Supply only contracts are for the supply only of goods and materials. They are unit price based on an actual or close estimate of quantities. Related aspects are delivery times and costs.

It is important to state whether a sole supply situation exists, or whether the supply may be shared.

The tenderer should be requested to advise of any minimum quantities that must be ordered for the tendered price to apply.

10.7 Contract Inclusions

Elements to be included when forming contracts are

- a) Contract Acceptance from both parties.
- b) A Clearly defined requirement
- c) Conditions of Contract
- d) Identify hourly or unit rates.
- e) Clearly state payment terms
- f) Contract review activity
- g) Contract Owner, Superintendent
- h) Contract KPI's
- i) Contract Penalty Clauses..

SECTION 11 - REPORTING REQUIREMENTS

11.1 Annual Reporting

The City of Launceston must publish in its Annual Report in relation to all contracts for supply of goods and services valued at or above \$250,000 (excluding GST), awarded in the financial year including any extensions granted. The following information will be provided:

- 1) Description of the contract;
- 2) Period of contract;
- 3) Any extension of contract;
- 4) Value of contract;
- 5) Successful supplier's name; and
- 6) Supplier's address.

Where an exemption has been granted from a tender process in accordance with Regulation 27(a), the following information will be provided:

- 1) A brief description of the reason for not inviting public tenders;
- 2) Description of goods or services acquired;
- 3) Value of the goods or services acquired; and

- 4) Name of the supplier.

11.2 Reporting to Council

The relevant Director will report to Council in relation to the purchase of goods or services in circumstances where an open tender process is not used (as described in clause 7.1.7 - Non-application of Public Tender Process). The reporting to Council should take place as soon as possible.

11.3 Complaint Handling

In the first instance the manager in charge of the purchase of goods or services will seek to find a resolution to the complaint. The manager should consider whether the director or another independent manager should be consulted before responding to the complaint. If the complainant is not satisfied with the response of the manager, the complainant may write to the General Manager giving details of the complaint. The General Manager will take whatever action is considered necessary to resolve the complaint.

The following records will be maintained of any complaint received and/or resolved:

- 1) Date of complaint;
- 2) Complainant's details;
- 3) Description of complaint; and
- 4) Action taken including dates.

SECTION 12 - TENDER COMMITTEE ROLE AND REPORT

12.1 Tender Committee Role

The role of the Tender Review Committee is set out in the Tender Review Committee Policy (11-PI-002).

The Committee has delegated authority to accept recommendations from a Tender Evaluation Panel in regard to tenders for approved projects within financial parameters. Where the Committee is:

- unable to accept the recommendation of the Tender Evaluation Panel
- and the panel is unable or unwilling to reconsider its evaluation; or
- the project is in excess of the above criteria; or
- the relevant Director is unable or unwilling to absorb the expected over expenditure

then the Committee shall refer the project to Council for determination. The Committee must make a recommendation to Council and include a copy of any reports from the Tender Evaluation Panel.

The Tender Review Committee should not normally accept any tender subject to future conditions being met, such as subject to product testing or acceptance.

The Committee may consider a condition based on the subsequent issue of a permit by the City of Launceston but the Tender Evaluation Panel may not award the contract until the condition is met.

12.2 Report on Tenders

A tender report is prepared for submission to the Tender Review Committee to review the tender process, and accept or reject the recommendation of the Tender Evaluation Panel.

For a full scope of the Tender Review Committee, refer to 11-PI-002.

The tender report template and format is found in ECM under 11-Fm-031.

RELATED POLICIES & PROCEDURES:

[11-PI-002 Tender Review Committee Policy](#)

[22-PI-029 Acceptance of gifts and benefits by staff policy](#)

RELATED LEGISLATION:

Local Government Act, 1993 and Regulations 2005 and 2006
Consumer and Competition Act 2010 (Commonwealth)

REFERENCES:

Barry Tozer – Tender Evaluation, October 1996.

FIDIC – Tendering Procedures, 1994.

Standards Australia – Code of Tendering, AS4120 – 1994.

REVIEW:

This procedure will be reviewed no more than 4 years after the date of approval (version) or more frequently, if dictated by operational demands.