

CODE FOR TENDERS AND CONTRACTS

CITY OF LAUNCESTON

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1 Introduction

This Code for Tenders and Contracts (the Code) provides a policy framework on purchasing and tendering requirements for Council. In this document, "City of Launceston", "Launceston City Council", "we", "us", and "our" refers to Council. "Suppliers" means people or entities that offer goods or services to us - for example contractors, sub-contractors or consultants.

2 Legislation

In accordance with Part 16, Division 2A, sections 333A and 333B of the Local Government Act 1993 (Tas) (the Act), we must create, maintain and comply with this Code when acquiring goods and services. Detail contained in the Code is consistent with the requirements of the Local Government (General) Regulations 2005 (the Regulations), regulations 23–29 inclusive.

3 Purpose

The Code aims to:

- ensure compliance with relevant legislation;
- enhance value for money through fair, competitive, non-discriminatory procurement;
- promote the use of resources in an efficient, effective and ethical manner;
- encourage probity, accountability and transparency in decision making;
- provide reasonable opportunity for competitive local businesses to supply to City of Launceston;
- minimise the cost to suppliers of participating in the tendering process;
- allow us to appropriately manage risk; and
- promote our economic, social and environmental plans and policies.

4 Scope

4.1 Policy versus procedure

The Code essentially provides a high-level overview of tender and contract requirements as they apply to City of Launceston. Although some procedural detail associated with our tender and contract management systems and processes is included in this document, additional lower level detail is contained in procedure documents.

Consistent with the requirements specified in Regulation 28, we will establish and maintain local level procedures to:

- ensure all potential suppliers are provided with the same information relating to the requirements of an open tender process or contract and are given equal opportunity to meet the requirements;
- that fair and equitable consideration is given to all tenders or quotations received;
- deal honestly with and be equitable in the treatment of all potential suppliers;
- ensure a prompt and courteous response to all reasonable requests for advice and information from potential or existing suppliers;
- protect commercial in confidence information;
- review each tender process to ensure that each tender is in accordance with the Regulations and the Code; and
- ensure that all submissions received are treated in a manner reflecting probity, transparency and preventing any suggestion of improper handling of pricing and quotes.

We will also establish and maintain procedures for:

- amending, extending or cancelling a tender once it has been released;

- opening tenders;
- the consideration of tenders that do not fully conform with the tender requirements; and
- handling complaints regarding processes related to the supply of goods or services.

4.2 Employees and Service Providers

The Code applies to Council, council employees and agents and any supplier wishing to compete for City of Launceston business or provide goods, services or works to City of Launceston.

Wherever reasonably possible suppliers engaged by us to source services, will apply the Code when seeking tenders or quotations in respect of Council business from third parties.

5 Procurement Principles

We will have regard to the following principles when acquiring goods and services:

5.1 Open and effective communication

We will ensure that the purchasing process is impartial, open and encourages competitive offers. In practice this means that we will:

- use transparent and open purchasing processes so that service providers and the public are able to have confidence in the outcomes;
- adequately test the market through seeking quotations or via tender as appropriate;
- avoid biased specifications;
- treat all service providers consistently and equitably; and
- ensure a prompt and courteous response to all reasonable requests for advice and information from service providers.

5.2 Value for money

We will ensure that we are buying at the most competitive price available, but value for money does not mean buying at the lowest price. In practice this means that we will consider:

- the contribution the goods or service makes to achieving our strategic plans or policies;
- the value of the acquisition and potential benefits against the costs of that purchase;
- an assessment of risks associated with the purchase including the preferred procurement method;
- how well goods or services meet needs;
- maintenance and running costs over the lifetime of a product;
- disposal value;
- time constraints;
- the impact of the procurement decision on the local economy, such as through industry development and employment creation;
- the impact of the procurement decision on the environment, such as through minimising waste and reducing demand for goods and services which have a direct impact on the environment (such as printing, utilities and travel); and
- the impact of the procurement decision on the society (social value generated) such as through the elimination of discrimination and the promotion of equal opportunity, training, and other identified social objectives.

5.3 Enhancement of the capabilities of the local business industry

We will ensure that where local capacity exists we will seek to engage the local market and encourage participation in tender and quotation processes. In practice this means that we will:

- actively seek quotes from local businesses that are able to provide quality goods and/or services;
- where local capability exists, ensure that discretionary elements of specifications do not prevent local business from competing; and
- not give preferential treatment to local service providers where it cannot be reasonably justified.

5.4 Ethical behaviour and fair dealing

We will promote procurement practice that is legal, ethical, fair and unbiased. In practice this means that we will:

- comply with legal requirements;
- conduct all business in the best interests of the Council;
- be as effective and efficient as possible when sourcing, ordering and paying for goods and services;
- expect individuals involved in procurement processes to declare and act upon any conflict of interest situations that may arise and be perceived to influence impartiality (see 11-Fm-032 Conflict of Interest and Confidentiality Declaration);
- ensure that specifications are clear;
- ensure that any service provider is not provided with information or clarification that is not provided equally to all service providers;
- maintain confidentiality - except where the law requires us to do otherwise - at all times in dealing with service providers;
- ensure that conditions of contract are not excessively onerous; and
- decline gifts or benefits offered by those involved in the procurement process.

In practice this means that we expect suppliers to:

- ensure that they are well acquainted with our requirements as identified in the Code;
- are familiar with particulars relating to a specific tender and quotation processes including the relevant specifications;
- not submit a tender or quotation unless they have the financial, technical, physical, management resource, or other capabilities to fulfil our requirements;
- not seek to influence a procurement process by improper means including collusion with other suppliers;
- declare and act upon any conflicts of interest that may be seen to influence impartiality;
- comply with all applicable legislative, regulatory and statutory requirements, including Acts of the Commonwealth and State, regulations, by laws and proclamations made or issued under such Acts and lawful requirements or directions of public and other authorities; and
- not offer gifts or benefits to a Council officer for the discharge of official business.

6 Procurement Methods

While open and fair competition is best achieved by undertaking a tender process where all interested parties have an opportunity to bid, there are times when this practice is not the most advantageous outcome for the Council and for suppliers. In such instances, other market approaches may be more appropriate.

While having regard to the legislation, this code, and internal procedures, we will in our absolute discretion determine the appropriate method that will be employed to procure goods and services at any particular time. A system generated Purchase Order will be issued for all procurement and

may be either, a direct purchase, part of a detailed contract, or a full Tender Package. Dependant on scope and value, the procurement methods employed by the Council are:

- a direct purchase;
- issue a Request For Quotation (RFQ);
- issue an Expression of Interest (EOI);
- issue a tender; or
- issue a multi stage tender (an EOI as stage one, then a formal Tender as stage two).

6.1 Non Tender Processes for acquisition of goods and or services

Purchase Orders.

Purchase Orders are issued for all requirements by the City of Launceston and depending on the risk and value profile of the requirement, may be a stand alone Purchase Order or form part of more detailed documentation. City of Launceston Purchase Orders are issued in accordance with the "City of Launceston Standard Terms and Conditions of Purchase" (see 11-Rf-011) and as such can be utilised for straightforward low risk purchases, even though some may be of considerable value.

Quotation Requirements

The current approved quotation requirements are detailed in the table below:

Purchasing Estimate	Minimum Requirement
Less Than \$1,000	Verbal quote only. Purchase Order raised. Refer to quote.
From \$1,000 to \$9,999	One written quote from a supplier. Purchase Order raised with reference to the quote. Quote attached to Purchase Order.
From \$10,000 to \$49,999	Two written quotes from suppliers unless exempt per below. Purchase Order raised with reference to the successful quote. All quotes attached to purchase order.
From \$50,000 to \$99,999	Three written quotes from suppliers, unless exempt per below. Purchase Order raised with reference to the successful quote. All quotes attached to Purchase Order.
From \$100,000 to \$250,000	Three written quotes from suppliers, unless exempt per below. Purchase Order raised with reference to the successful quote. All quotes attached to purchase order. The council requires this value range to be treated similar to a tender panel, showing evaluation attributes, weightings, and scoring. A project panel of three will conduct the evaluation scorings. The recommendation should be approved by the relevant General Manager. A contract should be used in addition to a Purchase Order and all relevant documentation should be recorded in the ECM records database.
Greater than \$250,000	Public Tender Process >=\$250,000 Refer Code for Tenders and Contracts

Records are kept of all quotations received and if written quotations cannot be obtained, then Council must keep detailed written records of the oral quotation obtained including details of the commercial terms of the quotation.

It will be considered a serious breach of this code to intentionally split the Purchase Order to avoid the requirement for obtaining the required amount of supplier quotations (see 11-HLPr-001 Purchasing High Level Procedures).

6.1.1 General Manager discretions

General Managers have discretionary authority for the following:

- to allow for a reduced number of quotes in any particular situation; and/or
- to appoint a sole supplier, or a particular service provider.

A General Manager's authorisation needs to be in writing and saved to the Purchase Order along with the relevant quote/s.

Purchasing goods and or services through the National Procurement Network (NPN) or other Government contracts is an option for Councils. Purchasing through these mechanisms still require observing the above quote requirements. Items with a financial value above the prescribed amount may be legitimately purchased through these organisations and is justified under the Regulations (see **10 Exemptions**).

6.2 Tender - processes for acquisition of goods and or services

The Act and Regulations require that we invite tenders for any contract we intend to enter into for the supply or provision of goods or services valued at or above a prescribed amount. The prescribed amount is \$250,000 (GST exclusive).

That said, we may also determine that tenders should be called in certain circumstances as appropriate, where the estimated value of the purchase is less than the prescribed amount, or where a reputational risk to the Council may exist.

6.2.1 Open tenders

An open tender process is an invitation to tender by public advertisement. There are generally no restrictions regarding who can submit a tender, however, service providers are required to submit all required information and will be evaluated against stated selection criteria and assessment methodology.

Consistent with the Regulations (Regulation 24) Council will ensure that when open tenders are used as a method of procurement, the Chief Executive Officer (CEO) will invite tenders.

The CEO will advertise the tender locally via the daily newspaper circulating in the municipal area and on our website – making the tender available to all qualified and interested bidders.

A supplier who submits a tender must do so in writing. The supplier must specify the goods or services tendered for and conform to the lodgement instructions.

6.2.2 Multiple-stage tender

There are occasions – although usually limited (because the process can be resource intensive - , when we may use a multiple-stage tender process. Reference is made to this process in the Regulations at Regulation 26.

This tender method is used to gain knowledge about the market and obtain industry input - where it is unclear what goods and services are available - or to shortlist appropriate suppliers before seeking offers.

At each stage in this process, suppliers may be culled to those who are most suited to the specific contract requirements. Suppliers will be evaluated against criteria determined by the respective Council officers.

Once a short list of potential service providers is developed, these service providers may be invited to participate in a closed tender process.

As a first stage in this process, the CEO will seek expressions of interest from prospective tenderers. The CEO will advertise the expression of interest locally via the daily newspaper circulating in the municipal area and via our website.

This will be in accord with the requirements of the *Local Government (General) Regulations 2005* (the Regulations), Regulation 26.

At the final stage of a multiple-stage tender process, the CEO will invite all suppliers who have met the criteria determined by the respective Council officers, to tender for the supply of goods or services. If only one service provider meets the criteria, we may contract with that supplier after a tender by that supplier, and after a decision by the Tender Review Committee to do so.

A supplier who submits a tender must do so in writing. The supplier must specify the goods or services tendered for, in accord with the requirements of the tender, and must lodge the tender within the period specified as per the public notice and the specific tender documentation.

6.3 Ongoing supply arrangements - goods and services

6.3.1 Standing contract

A Council, through an open tender process, may establish a standing contract in which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process.

Reference is made to this process in the Regulations at Regulation 24. Suppliers listed on a standing contract will be selected following an evaluation process. We may legitimately purchase directly from a service provider listed on a standing contract.

We may implement our own standing contracts or we may make use of standing contracts that have been negotiated, for example, for Tasmanian Councils via the Local Government Association of Tasmania as a member of the NPN or via similar arrangements through the Tasmanian or other State Governments.

6.3.2 Multiple use register

A multiple use register is a list, intended for use in more than one procurement process, of pre-qualified suppliers, who have satisfied the conditions for participation or inclusion on the register. Reference is made to the multiple use register process in the Regulations at Regulation 25.

We may establish a multiple use register of suppliers who meet our criteria in respect to the supply of particular categories of goods or services. Inclusion on a multiple use register provides certainty for potential suppliers that they have been recognised as meeting conditions for participation.

We will invite tenders for a contract for the supply of goods or services from all suppliers included on a multiple use register for a particular category of goods or services.

As per Regulation 28, Council will establish and maintain procedures for the use of multiple use registers for contracts valued under \$250,000 (GST exclusive). The CEO will invite applications from suppliers for inclusion on a multiple use register by advertising locally via the daily newspaper circulating in the municipal area and via our website.

The public notice will identify:

- clearly the nature of the goods and or services the Council requires;
- contract identification details;
- the period within which the expression of interest must be lodged;
- where the expression of interest must be lodged; and
- details of a person from whom more detailed information relating to the expression of interest may be obtained.

The CEO will ensure that applicants are provided with information consistent with the requirements of the *Local Government (General Regulations) 2015*, including but not limited to:

- the specifications of the goods and or services required;
- objective criteria for evaluating the expression of interest;
- the method of evaluating expressions of interest against the criteria;
- details of any further stages in the tender process; and
- reference to the Council Code for Tenders and Contracts.

We may accept or reject an application for inclusion on the multiple use register. If we reject an application, we will advise the applicant of the reasons for rejection. If we accept an application, we will advise the applicant of the category in which the supplier will be included in the multiple use register.

We will review the multiple use register at least every two years. We will allow a supplier to apply for inclusion on the multiple use register at any time unless the service provider has made an application in the previous 12 months and the application has not been accepted.

6.3.3 Strategic alliances

We may choose to procure goods and services through contract arrangements already established and administered by other organisations, including the Local Government Association of Tasmania (through the NPN), State Government contracts; and any other purchasing group of which we are a member, and permitted by the Regulations.

7 Calculating the Value of a Purchase

7.1 Price

The dollar value of the purchase may be calculated as:

- a one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
- multiple purchases – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- ongoing purchases over a period of time – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).

As per Regulation 23, we will not split a single procurement activity into two or more separate contracts for the primary purpose of avoiding the requirement to publicly invite tenders.

7.2 Non price considerations

We will ensure that we are buying at the most competitive price available, but quantifying the value of a purchase does not simply mean buying at the lowest price. Specific non-price related matters that we will take into account are identified at **5.2 Value for money** and include social, sustainable, and environmental considerations.

8 Goods and services tax (GST)

All procurement thresholds are GST exclusive. Tenders and quotations must be sought on a GST exclusive basis.

9 Extension of contracts entered into by tender

Consistent with Regulation 23(5), Council may extend a contract entered into as specified in the original contract documentation, or if the contract does not specify extensions, by an absolute majority.

10 Exemptions

There are circumstances where, subject to the CEO's authorisation, we may not call for a public tender. These circumstances are identified in Regulation 27.

- an emergency if, in the opinion of the CEO, there is insufficient time to invite tenders for the goods or services required in that emergency.
- 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 obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania or any other local government association in this State or in another State or a Territory or any organisation, or entity, established by any other local government association in this State or in another State or a Territory.
- a contract for goods or services in respect of which a 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 a 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
 - the remoteness of the locality; or
 - the unavailability of competitive or reliable tenderers; or
 - a contract of employment with a person as an employee of the council.

The CEO will authorise non-use of the public tender process in accordance with the exemption directions identified above.

11 Engaging a third party to manage a procurement

We may engage a third party to manage the procurement for individual projects. The use of a third party as an agent or consultant to advise on, arrange or manage a procurement does not exempt us from complying with the Code, our Procurement Policy 11-Plx-001 and procurement procedures.

If we engage a third party to manage a procurement, we will ensure that contractual arrangements with the third party are such that the third party is required to comply with the Code, and procurement policy and procedures.

12 Reporting procedures

We are obliged to report, at a minimum, on a series of procurement matters. These matters are described in Regulation 29 of the *Local Government (General Regulations) 2015*.

In addition to ensuring the above reporting occurs, Regulation 28(j) requires the CEO to establish and maintain procedures for reporting to Council if a public tender or quotation process was not used and reasonably should have been.

13 Work Health and Safety

By submitting and accepting goods and service contracts, the supplier/contractor guarantees that all work shall be executed in compliance with any relevant Workplace Health and Safety legislation, and conform to the City of Launceston workplace health and safety requirements. Relative to the engagement, contractors will be required to present a comprehensive Workplace Health and Safety program as part of their submission.

14 Delegation

Any delegations are recorded in the Delegations Register.

15 Review of the Code

Consistent with the requirements identified in Section 333B of the Act, Council will formally review this Code at least every four years. Changes to operational requirements or legislation, may trigger an earlier review of the Code.

16 Breach of the Code

We will take all reasonable steps to comply with the Code. We will not be liable in any way to a supplier or any person for a breach of the Code.

If any employee of the Council, or a body controlled by the Council, breaches the Code, we may take disciplinary action if, in our absolute discretion, we consider it desirable to do so.

17 Accountability

Consistent with section 333B of the Act, we will make a copy of the Code and any amendments, available for public inspection at the Council's offices during ordinary office hours, make copies available for purchase at a reasonable charge, and publish a copy on our website.

RELATED POLICIES & PROCEDURES

[11-Plx-001 Procurement Policy](#)

[11-Fm-032 Conflict of Interest and Confidentiality Agreement](#)

[11-HLPr-001 Purchasing \(Non-Tendered\) Procedure](#)

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

[11-Rf-011 - Standard Terms and Conditions of Purchase Orders](#)

RELATED LEGISLATION

Local Government Act 1993 (Tas)

Local Government (General) Regulations 2005

REFERENCES

Local Government Association Tasmania - Local Government Guide - Code for Tenders and Contracts <http://www.lgat.tas.gov.au/page.aspx?u=927>

REVIEW

This policy will be reviewed no more than 4 years after the date of approval (version) or more frequently, if dictated by operational demands and with Council's approval.