



## Procurement Policy

<b>Classification:</b>	Council Policy
<b>Version Number:</b>	6
<b>Review Frequency:</b>	Once during the term of Council
<b>Last Reviewed:</b>	October 2023
<b>Review Due:</b>	October 2027
<b>Responsible Officer:</b>	Chief Executive Officer Director Corporate Services
<b>Applicable Legislation:</b>	Section 49 Local Government Act 1999
<b>Related Policies/Procedures:</b>	<ul style="list-style-type: none"> <li>• Internal Financial Controls Policy &amp; Manual</li> <li>• Risk Management Policy</li> <li>• Prudential Management Policy</li> <li>• Fraud and Corruption Prevention Policy</li> <li>• Administration Corporate Credit Card Policy</li> <li>• Council Members Allowances and Benefits Policy</li> <li>• WHS Contractor Management Policy &amp; Procedure</li> <li>• WHS Plant Procedure</li> </ul>

### 1. PURPOSE:

Council aims to achieve advantageous procurement outcomes by:

- 1.1 enhancing value for money through fair, competitive, non-discriminatory procurement;
- 1.2 promoting the use of resources in an efficient, effective and ethical manner;
- 1.3 making decisions with probity, accountability and transparency;
- 1.4 providing reasonable opportunity for competitive local businesses to supply to Council;

- 1.5 appropriately managing risk; and
- 1.6 ensuring compliance with all relevant legislation.

## **2. LEGISLATIVE CONTEXT:**

- 2.1 In compliance with Section 49 of the Local Government Act 1999 (Act), Council will act in accordance with this policy when acquiring goods and services.
- 2.2 Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
  - 2.2.1 the contracting out of services; and
  - 2.2.2 competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
  - 2.2.3 the use of local goods and services.
- 2.3 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
  - 2.3.1 obtaining value in the expenditure of public money; and
  - 2.3.2 providing for ethical and fair treatment of participants; and
  - 2.3.3 ensuring probity, accountability and transparency in all operations.

## **3. SCOPE:**

- 3.1 This policy seeks to:
  - 3.1.1 define the methods by which Council can acquire goods and services;
  - 3.1.2 demonstrate accountability and responsibility of Council to ratepayers;
  - 3.1.3 be fair and equitable to all parties involved;
  - 3.1.4 enable all processes to be monitored and recorded; and
  - 3.1.5 ensure that the best possible outcome is achieved for the Council.
- 3.2 However, this policy does not cover:
  - 3.2.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
  - 3.2.2 the disposal of land and other assets owned by the Council; or
  - 3.2.3 the purchase of land by the Council.

## **4. PROCUREMENT PRINCIPLES:**

Council must have regard to the following principles in its acquisition of goods and services:

- 4.1 *Encouragement of open and effective competition*
- 4.2 *Obtaining Value for Money*
  - 4.2.1 This is not restricted to price alone.
  - 4.2.2 An assessment of value for money must include, where possible, consideration of:
    - 4.2.2.1 the contribution to Council's long term plan and strategic direction;

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- 4.2.2.2 any relevant direct and indirect benefits to Council, both tangible and intangible;
  - 4.2.2.3 efficiency and effectiveness of the proposed procurement activity;
  - 4.2.2.4 the performance history, and quality, scope of services and support of each prospective supplier;
  - 4.2.2.5 suitability of the proposed goods or service;
  - 4.2.2.6 whole of life costs;
  - 4.2.2.7 Council's internal administration costs;
  - 4.2.2.8 technical compliance issues;
  - 4.2.2.9 risk exposure; and
  - 4.2.2.10 the value of any associated environmental benefits.
- 4.3 *Probity, Ethical Behaviour and Fair Dealing*
- Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
- 4.4 *Accountability, Transparency and Reporting*
- All procurement shall be undertaken in a manner that ensures:
- 4.4.1 Clearly established roles and responsibilities;
  - 4.4.2 Appropriate record keeping and documentation;
  - 4.4.3 Transparency of decisions made;
  - 4.4.4 Adherence to all statutory legislation and local codes of conduct;
  - 4.4.5 The identification and management of actual or potential conflicts of interest;
  - 4.4.6 The confidentiality of all commercial information.
- 4.5 *Ensuring Compliance with all Relevant Legislation*
- Purchasing activities will be conducted in accordance with legislative and common law responsibilities, these include but are not limited to the, Local Government Act 1999, Competition and Consumer Act 2010, WHS Act & Regulations 2012 SA, National Competition Policy and other relevant legislation, industrial awards and agreements.
- 4.6 *Encourage the development and competitiveness of local business and industry.*
- Where the evaluation criteria are comparable, Council may consider the following:
- 4.6.1 the creation of local employment opportunities;
  - 4.6.2 increased availability of local servicing support;
  - 4.6.3 increased convenience with the supplier for contract management;
  - 4.6.4 economic growth within the local area;
  - 4.6.5 benefit to Council of associated local commercial transaction; and/or
  - 4.6.6 the short and long term impact of the procurement on local business.
- 4.7 *Environmental Protection*
- Council will seek to:
- 4.7.1 adopt purchasing practices which conserve natural resources;
  - 4.7.2 purchase recycled and environmentally preferred products where possible;
  - 4.7.3 integrate relevant principles of waste minimisation and energy;
  - 4.7.4 provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.
- 4.8 *Identification and Management of Risk*

Council will ensure that appropriate practices and procedures of internal control and risk management are in place for its procurement activities including risk identification, assessment and implementation of controls.

## 5. METHODS OF PROCUREMENT:

The Council may, having regard to its Procurement Principles and any other factors utilise one or more of the following procurement methods:

### 5.1 *Direct Purchasing*

- 5.1.1 Council purchases from a single source, without first obtaining competing bids.
- 5.1.2 This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.
- 5.1.3 Methods of direct purchasing include petty cash, corporate credit cards and purchase orders.

### 5.2 *Quotations*

- 5.2.1 Council obtains quotations from prospective suppliers.
- 5.2.2 Generally, a minimum of two quotations are sought, subject to the value of the purchase in accordance with clause 6.1.
- 5.2.3 Where possible, the Council should request written quotes.
  - 5.2.3.1 If a written quote cannot be obtained, the Council must keep detailed written records of the verbal quote obtained, including details of the commercial terms of the quote.
- 5.2.4 This method may be suitable for low value, low risk goods and services.

### 5.3 *Request for Quotations (RFQ)*

- 5.3.1 This is where Council issues a formal quotation request (RFQ) from prospective suppliers.
- 5.3.2 Generally, a minimum of three RFQ are issued/sought.
- 5.3.3 This method may be suitable for simple, largely price-based purchases.

### 5.4 *Request for Tenders (RFT)*

- 5.4.1 This is where the Council issues a tender for a proposed goods and/or service.
- 5.4.2 Council may issue a "Select" Request for Tender where it has reasonable grounds for only dealing with a select group of potential suppliers.
- 5.4.3 Otherwise, Council may issue an "Open" Request for Tender.

### 5.5 *Strategic Alliances*

- 5.5.1 This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:
  - 5.5.1.1 LGA Procurement;
  - 5.5.1.2 Limestone Coast Local Government Association;
  - 5.5.1.3 a purchasing group of which the Council is a member;
  - 5.5.1.4 State Government contracts.

## 7. CONSIDERATIONS FOR THE COUNCIL:

The appropriate method of procurement will be determined with equal consideration to a number of factors, including (but not limited to):

### 7.1 Anticipated Value of the Purchase

As a general guideline for value (to be considered with regards to equal consideration of clauses 7.2 – 7.9):

Value of Purchase (\$)	Method of Procurement
Less than \$10,000	Direct Purchase
\$10,001 - \$50,000	Quotations – Minimum of 2 quotes
\$50,000 - \$100,000	Formal Request for Quotation
\$100,000 +	Request for Tender

The value of the purchase will be calculated as follows:

- single one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
  - multiple purchases – the total value, or the estimated total value, of the purchases (excluding GST).
- 7.2 cost of an open market approach versus the value of the acquisition and the potential benefits;
- 7.3 the circumstances of the procurement activity;
- 7.4 the objectives of the procurement;
- 7.5 the size of the market and the number of competent suppliers;
- 7.6 the Council's leverage in the marketplace;
- 7.7 time constraints;
- 7.8 an assessment of the risks associated with the relevant activity and /or project, including the risk profile of the procurement and any risks associated with the preferred procurement method. The prepurchase risk assessment and prepurchase checklist's provided in Councils WHS Plant Procedure will assist in this process.
- 7.9 an assessment of any benefits or efficiencies to support entering into a contract arrangement of an agreed term for the relevant activity, versus an ad hoc procurement process.
- 7.10 cumulative spend should be monitored by Council to determine whether the appropriate procurement process has been undertaken and if alternative

procurement methods are required to be undertaken to comply with this policy.

## 8. TENDER ASSESSMENT PANEL:

- 8.1 When a tender process is required a Tender Assessment Panel must be established (a Tender Assessment Panel is not required where Council undertakes procurement through contract arrangements already established and administered by other organisations (e.g. electricity procurement through LGA Procurement)).
- 8.2 The purpose of the Tender Assessment Panel is to:
- (a) prepare a clear and accurate specification that meets the objectives of the organisation, contemplates specific operational needs and considers the available budget;
  - (b) determine the tender method (open tender or select tender);
  - (c) determine the tender assessment criteria and associated weighting scores for each;
  - (d) evaluate each tender in accordance with established criteria; and
  - (e) make a recommendation to Council.

## 9. PANEL MEMBERSHIP:

- 9.1 For tender procurements that are estimated to be **less than \$150,000 excl. GST**, the membership of the panel will consist of a minimum of two (2) members. Membership may be a combination of staff, external expert, panel facilitator or a member of the LGA Procurement Team.
- 9.2 For tender procurements that are estimated to be **greater than \$150,000 (excl. GST)**, the membership of the panel will consist of a minimum of four (4) members. Membership will include two (2) staff, two (2) Council Members and if required, an external expert, panel facilitator or a member of the LGA Procurement Team.
- 9.3 The appointment of Council Members to a tender assessment panel requires a resolution of Council.

## 10. EXEMPTIONS FROM THIS POLICY:

### 10.1 GENERAL

Council acknowledges there may be 'ongoing purchases' with suppliers where multiple annually purchases are made, and where the supply market is known. To require quotations or tenders for such purchases would generally be of an immaterial benefit to Council and therefore an exemption may apply. Examples may include fuel, miscellaneous stationery, minor hardware etc. etc.

This policy contains general guidelines to be followed by the Council in its procurement activities. There may be emergencies, or procurements in which a tender process will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

In certain circumstances, the Council may waive application of the guidelines within this policy and pursue a method which will bring the best outcome for the Council. Where the procurement method is substantially and significantly misaligned with the guidelines contained within this policy, the Council must record its reasons in writing supporting the procurement method.

Some examples of when it may be appropriate for the Council to waive application of this policy are:

- (a) emergency situations threatening life and property; or
- (b) the supply market is known; or
- (c) timing constraints.

If a situation arises when it is necessary to undertake procurement outside the parameters of this policy, a Risk Assessment, attached at Appendix 1, must be completed and signed off by the CEO.

## 10.2 PURCHASE ORDERS:

Purchase orders are used for the purchase of all goods and services and signed as approved by an authorised Council officer in accordance with procurement limits at clause 11.

All procurements are to be authorised through a purchase order or through a contract arrangement/agreement, except when using petty cash, a corporate credit card or where purchases are exempt (refer to list below). Procurement authorised with a credit card must be in accordance with Administration's Corporate Credit Card Policy.

Exemptions for issue of purchase order include:

- Fees or payments imposed under any Act
- Insurance and freight charges
- Payments pursuant to any court order binding upon a Council
- Renewal of registration and subscriptions
- Payments of utilities
- Purchases under \$100.00
- Donations and Community Grants
- Services where a contract or agreement has been entered into with the provider
- Legal fees
- Postage
- Payment pursuant to any Award binding upon a Council
- Payment pursuant of Payroll Creditors (Union, Social Club and other deductions)
- Quarry royalties (recipient created invoice)
- Allowances to Council Members, and independent members on Council committees
- Staff reimbursements
- Refunds of overpayments on Rates/ Dogs/ Development applications.
- Labour hire
- Travel, accommodation and training
- Caravan Park kiosk sundry items
- Other items not listed that are immaterial or recurring and as authorised by the Chief Executive Officer.

A standing purchase order can be raised as an annual accumulative allocation for recurring expenditure of goods or services where it can be accurately estimated (e.g. security monitoring \$200/ month).

### 10.3 FUEL CARDS:

All employees and Council Members driving Council vehicles are authorised to purchase fuel for Council vehicles with Council fuel cards.

If fuel cannot be purchased using an authorised fuel card, employees may use a credit card in accordance with the Administration's Corporate Credit Card Policy. Employees must provide documentation as evidence of legitimate fuel purchase.

## 11. CORPORATE CREDIT CARD:

Council will operate a corporate credit card system which permits an appropriate level of cards to be issued to operational staff throughout the organisation. The credit card system will be capped at \$24,000 (across the organisation).

The corporate credit card recipient must comply with the conditions of use as set out in Administration's Corporate Credit Card Policy. The Credit Card Issue Form must be signed by the card holder before the credit card is issued.

## 12. DELEGATIONS:

12.1 Council makes delegations to the Chief Executive Officer pursuant to the Local Government Act 1999, including the power to expend Council's approved budgeted funds. This power is sub-delegated to other Council staff. Only Council staff and approved representatives with delegated authority pursuant to Section 44, 101 and 137 can incur expenditure on behalf of Council.

12.2 To provide transparency of procurement processes, all Tender Panel recommendations will be presented to Council for decision.

12.3 All procurement (and/or purchase orders) must be made in accordance with the following financial delegations:

12.4 Council provides delegation to the Chief Executive Officer to authorise fuel cards for Council vehicles.

<b>Position</b>	<b>Procurement Limit</b>
Chief Executive Officer	In accordance with approved budget
Director Infrastructure and Operations	\$50,000
Director Corporate Services	\$10,000
Community Development Officer	\$2,000



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Finance Manager	\$5,000
Project Manager	\$5,000
Operations Manager	\$10,000
Team Leader Community Facilities	\$5,000
Team Leader Construction & Maintenance	\$5,000
Mechanic	\$5,000

11.4 Other staff members may be required to procure goods or services at various times, however, procurement or purchase order must be authorised by a delegated officer in accordance with the procurement limits at clause 11.3 above.

**12. AVAILABILITY OF THE POLICY:**

This policy will be available for inspection on Council's website: [www.kingstondc.sa.gov.au](http://www.kingstondc.sa.gov.au). Copies will also be provided to interested members of the community upon request, and upon such payment of the fee set by Council.

## APPENDIX 1



## GENERAL RISK ASSESSMENT

### *Preliminary Assessment for Procurement outside of Procurement Policy*

<b>Risk Category</b>	Procurement (refer to Procurement Policy)
<b>Description</b>	
<b>Date</b>	

<b>Method Factors</b>	<b>Comments / Considerations</b>	<b>Risk Level</b>
<b>Value of Purchase</b>		
<b>Cost of Open Market Approach vs Value and Potential Benefits</b>		
<b>Circumstances</b>		
<b>Objectives</b>		
<b>Size of Market &amp; Number of Competent Suppliers</b>		
<b>Council's Leverage in Marketplace</b>		
<b>Time Constraints</b>		
<b>Assessment of Risks</b>		

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<b>Contract Arrangement</b>		
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**Other Policy Considerations:**

Nil

**Summary:**

**Method of Procurement:**

**Purchase Order Number:**

**Name:**

**Position:**

**Signature:** \_\_\_\_\_

**Authoriser:** Nat Traeger, Chief Executive Officer

**Signature:** \_\_\_\_\_

## APPENDIX 2



## KINGSTON DISTRICT COUNCIL TERMS AND CONDITIONS OF CONTRACT

1 DEFINITIONS: In these terms and conditions:

**“Contract”** means:

- (a) if the attached Works Order issues under a Local Government Works Contract (**“Head Contract”**), the provisions and any Specifications of the Head Contract together with the Works Order;
- (b) otherwise, these terms and conditions together with any Specifications and the attached Works Order, as constituting the contract documents and the entire terms of the agreement.

**“Specifications”** mean any specifications the Principal issued for the Contract.

**“Works”** means all work specified in the attached Works Order, and any additional work necessary to perform the Contract, including any variations agreed between the parties.

1 STATUS OF CONTRACTOR:

The Contract does not constitute the Contractor as the partner, joint venturer, agent or employee of the Principal for any purpose.

2 OBLIGATIONS OF THE CONTRACTOR:

The Contractor shall:

- 2.1 Perform and complete the Works and, subject to other provisions in the Contract, provide all supervision, labour, materials, plant, transport and temporary works necessary.
- 2.2 Not vary the Works from the description in the Works Order or the Specifications without the prior written consent of the Principal.
- 2.3 Be responsible for the care of the Works from commencement until completion, including the care, storage and protection of unfixed items and items provided by the Principal.
- 2.4 Provide, erect and maintain all barricades, fences, signs, lighting and temporary works necessary for the protection of the Works, other property and for the safety and convenience of the public.
- 2.5 Complete the Works diligently and to the satisfaction of the Principal and within the time specified in the Works Order or as agreed in writing by the Principal.
- 2.6 Not vary the price of the Works from the price agreed, or undertake work which will incur additional costs without the prior written consent of the Principal

3 QUALITY:

- 3.1 The Contractor shall exercise reasonable skill, care and diligence in performing the Works and comply with all applicable standards, codes of practice and any specific requirements resulting from the Contractor’s occupation or expert knowledge.
- 3.2 The Contractor at its cost shall correct any defects in the Works within 14 days of notice in writing by the Principal requesting correction. Failing such correction, the Principal may have such defects corrected at the reasonable cost of the Contractor.

- 4     **WARRANTY:**  
The Contractor warrants that all materials provided to the Principal as part of the Works will:
- 4.1    conform with the description in the contract documents;
  - 4.2    be of good merchantable quality, suitable for the purpose for which provided;
  - 4.3    be new, unless otherwise agreed in writing by the Principal;
  - 4.4    on installation in the Works, be free of any security interest of a third party.
- 5     **STATUTORY REQUIREMENTS:**  
The Contractor shall:
- 5.1    comply with all legislation and other laws relating to the Contract or the performance of the Works, including give any notices as may be required;
  - 5.2    comply with any obligations of the Contractor as may arise under the Ombudsman Act 1972 and/or the Independent Commissioner Against Corruption Act 2012 in relation to the Contract.
- 6     **PAYMENT:**
- 6.1    Unless otherwise specified in the payment terms, the Council shall pay, by cheque or electronic funds transfer, the price to the Supplier by the last business day of the calendar month following the month in which the invoice is dated provided that the goods are supplied, and the services are provided in the manner setout in the contract documents.
  - 6.2    The Supplier must provide an invoice (preferably in PDF electronic file) to the email address [accounts@kingstondc.sa.gov.au](mailto:accounts@kingstondc.sa.gov.au) to the Council on the completion of supply of the goods or services specifying the relevant purchase order number.
- 7     **INDEMNITY:**  
The Contractor agrees to indemnify and keep indemnified the Principal, its employees and agents and each of them from and against all actions, costs, claims, damages or charges and expenses whatsoever which may be made or brought or claimed against them arising out of or in relation to the performance of the Works.
- 8     **PUBLIC LIABILITY INSURANCE:**  
The Contractor shall take out and keep current during the period of this Contract a public risk insurance policy in the name of the Contractor for a minimum sum of \$20,000,000.00 in relation to the Contract. The Contractor shall not commence the Works until evidence of such insurance is given to the Principal.
- 9     **SUB-CONTRACTING:**  
The Contractor shall not sub-contract any of the Works.
- 10    **WORKPLACE SAFETY:**
- 10.1   The Contractor shall comply with the Work Health and Safety Act 2012 and its regulations and ensure that its employees comply with the same and any notices and codes of practice issued thereunder and having application to this Contract.
  - 10.2   The Principal has non-delegable duties under the Work Health and Safety Act 2012, and so right to ensure the Contractor complies with the Act.
  - 10.3   The Contractor shall comply with all reasonable directions and procedures relating to security and workplace safety as required by the Principal when the Works are to be undertaken at premises or facilities of the Principal.

- 10.4 The Contractor shall immediately notify the Principal of any incident or accident arising from the undertaking of the Contract including those involving the public.
- 11 WORKCOVER:  
Where applicable:
- 11.1 The Contractor must be registered as an employer under the Return to Work Act 2014 and that it pays all levies due thereunder in respect of its employees engaged in or about the Works.
- 11.2 The Contractor agrees to indemnify the Principal in respect of any action, claim, demand, suit or proceedings made by an employee of the Contractor brought in connection with the Return to Work Act 2014.
- 11.3 The Contractor (if an individual) shall have or take out and keep current a personal accident and sickness insurance policy for a period from the commencement of the Works extending until the completion date of this Contract.
- 12 DISPUTES:  
All disputes or differences between the Principal and the Contractor shall be referred to an arbitrator who shall be mutually agreed upon by the parties.
- 13 SPECIAL CONDITIONS:  
Any special conditions that Council shall incorporate on the purchase order shall be incorporated into these standard terms and conditions and in the event of any inconsistency with the terms of the contract the special conditions prevail.
- 14 OMBUDSMAN:  
The supplier acknowledges that the Ombudsman Act 1972 (SA) empowers the Ombudsman to investigate matters in the public interest. The Supplier must ensure compliance with all obligations arising under the Act and all other applicable laws.
- 15 ICAC:  
The Supplier acknowledges and agrees that by entering into this contract with the Council the Supplier will be considered to be a public officer, for the purposes of the Independent Commissioner Against Corruption Act, 2012 (SA) and is obliged to comply with the ICAC Act and the Directions and Guidelines issued pursuant to the ICAC Act.
- 16 TERMINATION:  
The Council may immediately terminate this agreement by giving notice to the Supplier if the Supplier:
- Ceases to carry on business or becomes otherwise unable to perform its obligations under this contract.
  - Breaches a provision of this contract and fails to remedy the breach within a specified reasonable time, defined by Council after receiving notice requiring it to do so;
  - Becomes an externally administered body corporate under administration or becomes insolvent (each within the meaning of the Corporations Act 2001).
- Termination of this Agreement under this clause does not affect any accrued rights or remedies of either party.
- 17 TIME OF THE ESSENCE:  
Time shall be of the essence as regard to any date or period under this contract.