

POLICY		Responsible Department	Finance
		Original Adoption Date	27.04.2022
		Current Adoption Date	23.04.2025
		Audit Committee Review Date	11.04.2025
		Date of next Review	23.04.2028

PROCUREMENT	
Latest Review Changes	Policy Rewrite due to Internal Audit Recommendations
Previous Council Reviews	29.06. 22 27.04.22, 07.06.17, 04.06.15, 23.02.11, 30.05.09, 21.04.03
Previous Audit Committee Reviews	19.08.22, 20.05.22, 09.06.17, 28.08.15, 22.02.11, 25.11.10, 08.07.10

Applicable Legislation

Local Government Act 1999

Related Policies

Code of Conduct for Council Employees
Credit Card Policy
Disposal of Land & Assets Policy
Financial Internal Control Policy
Prudential Management Policy
Risk Management Policy

Related Procedures

Tendering Procedures Manual
Plant Procedure
Creating Orders in Open Office Guide

Reference Documents

Procurement Glossary
Financial Delegations
LGA Procurement Handbook – latest version from LGA web site
Standard Procurement Templates (various)
Pre-Purchase Checklist

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1. PURPOSE

This Procurement Policy (the Policy) sets-out the matters to be considered by Roxby Council (the Council) when procuring Goods, Services and Works.

It provides both Council officers and the Market with a Procurement framework that defines the methods by which Council can acquire Goods, Services and Works.

Section 49 of the *Local Government Act 1999* (the Act) requires Councils in South Australia to prepare and adopt policies relating to the:

- contracting out of services
- competitive tendering and the use of other measures to ensure that services are delivered cost-effectively
- use of local goods and services

Section 49 of the Act also requires Councils to develop and maintain Procurement policies and procedures directed towards;

- obtaining value in the expenditure of public money
- providing for ethical and fair treatment of participants
- ensuring probity, accountability and transparency in Procurement operations

Procurement undertaken by the Council shall be consistent with and support Council's Strategic Management Plan, Annual Business Plan and Long Term Financial Plan.

2. SCOPE

This Policy applies to all Procurement activities performed by Council to source Goods, Services or Works from external Suppliers - see Figure 1 below.



Figure 1 - Procurement Process Model

Source
"Procurement Good Practice Guide" South Australian Government

The Policy does not apply to:

- non-procurement expenditures such as sponsorships, grants, funding arrangements, and donations; or
- employment contracts
- disposal of land and other Assets owned by the Council
- purchase of land
- annual ICT license fee renewals and subscriptions

The procurement of Goods and Services by the Council must:

- only relate to business of the Council and must not be of a personal nature
- be entered into in accordance with the Council's financial delegations and any relevant Council policies

3. PRINCIPLES

The Policy is designed to assist Council in achieving best-practice Procurement outcomes by:

- enhancing value-for-money through fair, competitive, non-discriminatory procurement with a consideration to quality, risk and sustainability.
- promoting the use of resources in an efficient, effective and ethical manner;
- making decisions with probity, accountability and transparency;
- working within Council's economic, social and environmental policies;
- providing reasonable opportunity for competitive local businesses to supply to Council;
- appropriately managing risk; and
- ensuring compliance with all relevant legislation.

In some cases, Council may experience Procurement difficulties as a consequence of its remote location. This may require flexibility in the application of Procurement practices to ensure balance is achieved across the various Objectives and Principles set out in this Policy.

4. DEFINITIONS

TERM	DEFINITION
Business Case	a justification for a proposed project or undertaking on the basis of its expected benefit to the Council and Community
Contractor	A company, organisation or personnel engaged by Council to provide Goods and Services.
Due Diligence	The conduct of a systematic review of a transaction, prior to entering the transaction. It has been defined in landmark legal cases as: "a minimum standard of behaviour involving a system which provides against contravention of relevant regulatory procedures and adequate supervision ensuring the system is carried out" and "indistinguishable from the obligation to exercise reasonable care"
Emergency Situation	A sudden, unforeseen event that requires immediate action, including disaster or threats to public health and safety.
Project	a new and discrete undertaking or activity that would involve the expenditure of money, and/ or deployment of resources, and/or incurring or assuming a liability, accepting an asset or divestment of an asset
Prudential Management	Requires the financial risks or adverse financial consequences of a project to be considered, minimised or offset to ensure that the proposed benefits of a project are achieved.
Prudential Project	A project or commercial activity being undertaken by Council or a subsidiary of Council that requires prudential legislative requirements to be followed.

Purchase Order (PO)	A commercial source document that is issued by a business to a supplier. The document indicates the details on the items that are to be purchased, such as the types of goods, quantity, and price. Legal contract commitment from the buyer when purchasing goods from the seller.
Direct Purchasing (DP)	A procurement strategy that involves an organisation buying goods or services directly from the manufacturer or service provider.
Request for Quotations (RFQ)	Where Council obtains written quotations from prospective contractors.
Requests for Expressions of Interest (REOI)	The Council will issue an open invitation for proposed Goods and Services. This method is often used where there is potentially a large market for the proposed Goods and Services, and the Council would like to be able to prepare a shortlist of Contractors to then invite to participate in a tender process.
Request for Tenders (RFT)	A competitive procurement process for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists.
Whole of Life Cost	The total cost of owning an asset over its entire life including design and building costs, operating costs, associated financing costs, depreciation, and disposal costs. Whole-life cost also includes environmental impact and social costs.

5. OBJECTIVES

The primary objective of this Policy is to provide clear direction and a framework for the Council's procurement of Goods and Services which is consistent with the principles outlined within section 49 (a1) of the Act.

This Policy also aims to allow for the expenditure of Council funds on Goods and Services in a manner that is consistent with the objectives of the Council's annual business plan, long term financial plan and strategic direction (as adopted and/or amended from time to time). It also aims to ensure the procurement process is conducted in an efficient manner.

6. PROCUREMENT PRINCIPLES

When undertaking its procurement activities, the Council should seek to strike an appropriate balance between the underlying need, timing and specific circumstances relating to the procurement and the following general procurement principles:

6.1. Procurement Pre-requisites

Council will only approach the Market after:

- establishing a clear need for the required Goods, Services or Works
- Identifying the scope and expected cost of the project
- complying with Prudential Management Policy requirements
- gaining proper approval for the proposed expenditure

6.2. Competition

Encouragement of open and effective competition.

6.3. Value for Money

Value for money considerations will, where appropriate, take the following into account:

- whole of life costs
- opportunity costs
- available budget
- the materiality of the level of expenditure
- timeframes relevant to the procurement of Goods and Services
- the contribution to Council's annual business plan, long term financial plan and strategic direction

- any relevant direct and indirect benefits to the Council, both tangible and intangible
- efficiency and effectiveness of the proposed procurement activity
- the performance history, quality, and financial capacity of each prospective Contractor of Goods and Services
- fitness for purpose of the proposed Goods and Services
- the Council's internal administration costs
- technical compliance, compatibility and interoperability
- risk exposure
- the value of any associated environmental benefits

6.4. Risk Management

Council will adopt sound risk management principles in its Procurement activities consistent with the Council's Risk Management Policy.

- The following procurement will require a risk assessment
 - o All Request For Tenders (RFT's)
 - o All Contracts
 - o All Projects
 - o When a single purchase order is over \$40K (exc GST)
 - o When a financial year spend is over \$100K (exc GST)
- Risk assessment must include actual or perceived conflicts of interest
- Risk Assessment Template located at Doc ID: 262482

6.5. Probity, Ethical Behaviour and Fair Dealing

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations, and use its best endeavours to deal with all respondents on the basis of mutual trust and respect.

If Council or the Chief Executive assess that the need for impartiality, fairness or independence will be compromised without the appointment of an independent Probity Officer, then one should be appointed for any specific procurement project.

Council will maintain the confidentiality of commercial information provided by Suppliers. Clauses dealing with the treatment of Confidential Information will be included in all Purchase Agreements.

6.6. Accountability, Transparency and Reporting

Records detailing all aspects of a Procurement process are to be maintained and appropriate documentation completed commensurate with the nature and complexity of the transaction.

Council must record written reasons for utilising a specific procurement method in each activity and where it uses a procurement method other than tendering.

All processes are to be auditable where possible.

6.7. Delegated Authority

Prior to the commencement of a procurement activity, with the exception of expressions of interest, the department must ensure that there is sufficient budget for the Goods and Services or have secured appropriate and committed funding through another source (e.g. grant funding) unless written approval has been given by the Chief Executive.

6.8. Compliance with laws

Council will ensure compliance with all relevant legislation.

6.9. Efficient Procurement Practices

Standard processes and documentation will be used wherever possible to ensure efficiency and consistency. Panel arrangements and pre-qualification of Suppliers will be utilised to improve the efficiency of the Procurement process and reduce the impact of repetitive bidding on Respondents.

6.10. Use of Local Suppliers

Where all other factors are equal, the Council may, to the extent permitted by law, favour the engagement of Suppliers operating within the area of Roxby Downs.

The following criteria are to be considered in selecting a local Supplier

- the creation of local employment opportunities;
- increased availability of local servicing support;
- increased convenience in dealing with the Supplier for contract management;
- economic growth within the local area;
- benefit to Council of associated local commercial transaction; and/or
- the short and long term impact of the Procurement on local business.

Where a suitable local area Supplier is not available then preference may be given to South Australian based and then Australia based Suppliers of Goods, Services or Works, in that order.

6.11. Emergency Situations

From time to time, Council may have to respond to emergency situations. Under these circumstances the Administrator and CEO must be notified of the situation and verbal approval to proceed to ensure a prompt and effective Procurement is undertaken in the best interests and safety of the Roxby Community. A request for exemption form must be complete on the proceeding days. (Doc ID 366516)

6.12. Purchase Orders

As soon as practical and where necessary a Purchase Order is to be issued to the supplier.

The initiating officer and the approving officer must be different Council employees.

A request for exemption form must be complete

6.13. Special Consideration

Situations may arise which do not meet the definition of an emergency situation but require action within a timeframe which is not achievable using the Request for Tender (RFT) process.

In such cases, the Chief Executive shall seek written authorisation from the Administrator, which shall include:

- i) The details of the activity including expected costs.
- ii) The reasons why Special Consideration is required to fund a particular project.
- iii) How the Special Consideration ensures the best value outcome for the Community

6.14. Purchase Outside Procurement Policy Approved Methods

At any time council is unable to meet the requirements of the procurement methods due to time constraints, emergency reasons, special consideration or lack of supplier engagement. A request for exemption form is to be completed and approved by the Chief Executive and registered in the appropriate folder in Magiq.

Finance will collate a register of exemptions and will report these back to the Audit and Risk Committee and Council on a quarterly basis.

6.15. Work Health and Safety

Council will only consider Contractors who have appropriate systems to manage Work Health and Safety or who can demonstrate a capability to establish adequate systems relevant to a contract prior to the commencement of a contract.

A condition of each works contract will be a requirement of a Contractor, before the commencement of the works, to prepare and submit proposed specific Work Health and Safety management guidelines based on hazard identification and risk assessment.

Council will ensure that WHS is considered prior to all acquisitions.

Procurement Documentation, which will typically include obtaining insurances and licences and certification relevant to the works, good or services.

6.16. Environmental Management and Sustainability

Council will seek to:

- adopt purchasing practices which conserve natural resources
- align the Council's Procurement activities with principles of ecological sustainability
- purchase recycled and environmentally preferred products where possible
- integrate relevant principles of waste minimisation and energy efficiency
- foster the development of products and services which have a low environmental impact
- provide leadership to business, industry and the community in promoting the use of environmentally sensitive Goods and Services

When engaging Suppliers, Council will require a minimum standard of environmental management which includes compliance with all applicable environmental law, regulations and licences. Additional environmental requirements specific to the Procurement will be advised in the Procurement Documentation.

7. PROCUREMENT MODES

7.1. Procurement Methods

The following procurement methods will be engaged in consideration to the monetary values outlined in table 8.1

7.1.1. Direct Purchasing (DP)

- Where the Council purchases from a single source, without first obtaining competing bids.
- This method is typically used for low value, low risk Goods and Services, and generally where the Contractor already has a successful service history with the Council.

7.1.2. Request for Quotations (RFQ)

- This is where the Council obtains written quotations from prospective Contractors.
- A minimum of three (3) written quotations should be sought (two (2) is acceptable where there are not three (3) suitable suppliers).
- A 'Request for Quotation' is generally used for purchases with minimal specifications.
- Received Quotations will be evaluated using the Evaluation Framework.

7.1.3. Requests for Expressions of Interest (REOI)

- The Council will issue an open invitation for proposed Goods and Services.
- This method is often used where there is potentially a large market for the proposed Goods and Services, and the Council would like to be able to prepare a shortlist of Contractors to then invite to participate in a tender process.

- REOIs may be publicly advertised or, where the Council has reasonable grounds for specifically dealing with a select group of potential Contractors or a demonstrated and evidenced limited supply market, to a select range of Contractors.

7.1.4. Request for Tenders (RFT) (Template Doc ID: 298152)

- The Council issues a tender for proposed Goods and Services.
- The Council may issue a 'Select' RFT which may be used where there are a limited number of suppliers able to provide the goods or services and where it has reasonable grounds for specifically dealing with a select group of potential Contractors such as a demonstrated and evidenced limited supply market.
- Otherwise, the Council may issue an 'Open' RFT.
- Open RFTs will be advertised on SA Tenders.

Both open tenders and select tenders require:

- Tender Evaluation Team (TET)
- Tender Evaluation Plan (TEP) *Doc ID: 298154*
- Tender Evaluation Sheet – *Doc ID: 283469*
- Tender Evaluation Report (TER) *Doc ID: 295366*.

The process for conducting evaluation is to be in accordance with the Tendering Procedures Manual. *Doc ID: 124638*

7.1.5. Panel Contracts

Where the Council establishes panel arrangements with a select group of Contractors. Typically, a tender is undertaken to select a group of Contractors which can provide identified Goods and Services and have the capability to meet the Council's needs, for inclusion on a panel.

Once a panel has been established, the Council may purchase particular Goods and Services through such panel arrangements, including directly from any of the Contractors on the panel, without the need to obtain quotes or seek tenders.

Panel arrangements with selected Contractors usually involve either:

- a standing offer from a pool of Contractors for the provision of Goods and Services on agreed terms
- the pre-qualification of certain Contractors who may or may not be engaged on terms to be agreed

7.1.6. Strategic Alliances

Where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including but not limited to:

- LGA Procurement
- Procurement Australia
- a purchasing group of which the Council is a member
- other Councils
- State Government contracts

Strategic alliances may result in the Council increasing its purchasing power by partnering with one or more Councils, representative bodies or suppliers.

Strategic alliances may enable the Council to achieve lower costs for standard Goods and Services through collaborative purchasing and achieve efficiencies in procuring the Goods and Services.

7.1.7. Unsolicited Proposals

Council recognises the reputational risk associated with any unsolicited bid. For this reason, 'exceptional circumstances' would need to be present before Council would consider any unsolicited bid. For an 'exceptional circumstance' to exist, the proposal would need to:

- Be unique in that it could not be delivered by any other party within acceptable
- timeframes, and Promote a tangible economic, social or environmental outcome which is consistent with Council's strategic objectives
- Any unsolicited proposal with a value greater than \$200,000.00 would automatically be subject to an appropriate competitive tender process in order to ensure appropriate governance standards

Proposals that are rejected on the basis of value or as a consequence of the following evaluation process should nevertheless undergo an internal evaluation to determine merit for future planning purposes.

7.1.8. Procurement Obligation

No legal relationship will exist between the Council and the Purchaser unless the Quote is accepted, and a legally binding contract is executed by both parties.

Council reserves the right to remove an RFQ, REOI or RFT if appropriate responses are not received.

8. CONSIDERATIONS FOR COUNCIL

The appropriate method of procurement will be determined by reference to a number of factors, including the Procurement Principles, and the following:

8.1. The procurement method will typically be determined by the monetary value and level of risk to Council.

The table below summarises the minimum procurement requirements:

Expenditure*	Requirement	Additional Requirement
Up to the purchase order limit \$2,000	(DP) - Direct Purchasing of low value & low risk purchases without a purchase order.	Expenditure in Council approved budget. Aligned with Delegations
Up to \$15,000	(DP) - Direct Purchasing with appropriate documentation for a purchase order to be raised (including at least one written cost estimate or written quotation).	Expenditure in Council approved budget Aligned with Delegations
\$15,001 to \$40,000	(RFQ) - Two Written Quotations	Group Manager approval for expenditure over \$10,000
\$40,001 to \$200,000	(RFQ) - Three (3) Written Quotations	Group Manager approval for expenditure over \$10,000 Chief Executive approval for expenditure over \$50,000
Over \$200,000	(RFT) - Formal tender process for purchases over contract duration over \$200,000	A formal Tender Evaluation Plan and Tender Evaluation Report with recommendation to Chief Executive (CE) for approval and Council Report to endorse recommendation, (Exception where CE has prior authorisation to approve by Council).

Table 1: Procurement requirements.

**The expenditure levels shown in Table 1 are the purchase value excluding GST.*

***See Annexure 1 for Purchases that do not require a purchase order*

The Administrator may authorise an alternative method of procurement.

- 8.1.1. Guidelines for calculating the value of a purchase may be calculated as follows:
- 8.1.2. single one-off purchase - the total amount, or estimated amount, of the purchase (excluding GST)
- 8.1.3. multiple purchases - the value, or the estimated value, of the purchases (excluding GST)
- 8.1.4. on-going purchases over a period of time (for example one year) the annual value, or the estimated annual value, of the purchases (excluding GST)
- 8.1.5. Purchase values should be determined on the basis of a reasonable belief
- 8.1.6. Purchases should not be split for the purpose of bringing them within lower limits
- 8.1.7. In the case of any uncertainty as to the value of a purchase, the General Managers or the Chief Executive have authority to determine the value
- 8.1.8. Cost of an open market approach versus the value of the acquisition and the potential benefits
- 8.1.9. The particular circumstances of the procurement activity
- 8.1.10. The objectives of the procurement
- 8.1.11. The size of the market and the number of competent Contractors
- 8.1.12. The Council's leverage in the marketplace
- 8.1.13. Time constraints
- 8.1.14. 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
- 8.1.15. Existing relationship with a Contractor relevant to the procurement in question. Extending an existing arrangement where the extension is modest having regard to the original intent of the agreement may provide the Council with greater value for money than if it were to pursue another procurement process in the wider, prevailing market. In the case of more substantial extensions, the Council will consider the other procurement methods set out in this Policy unless not doing so remains consistent with the Procurement Principles

9. PROJECT PROCUREMENT

Any project with a **Low-risk rating and whole of life cost under \$100,000** or related to a Work Health or Safety requirement. Will require approval via an *Implementation Plan Doc ID: 348770*.

9.1. For Projects with whole of life cost over \$100,000 or a risk rating of Medium, High or Extreme, will require approval via a Business Case Doc ID: 170992

Despite values being included in the annual business plan, these documents must be executed prior to commitment of funds or commencement of project.

9.2. Prudential Management

A Prudential Report will be prepared for major projects in accordance with Section 48 of the *Local Government Act 1999*.

See Prudential Management Policy (Magiq Doc ID 116250).

9.3. Confidentiality

Subject to the requirements of the Freedom of Information Act 1991, and the *Local Government Act 1999* confidentiality with regards to contractual arrangements with suppliers shall be maintained.

10. DELEGATIONS AND APPROVALS

10.1. Financial Delegations

Council Officers can only approve Procurement expenditure in accordance with the Financial Delegation approved for their position - see 'Financial Delegations' reference document.

Officers giving approval for Procurement expenditure are required to review all associated Procurement documentation to ensure they are fully conversant with the Procurement process.

10.2. Separation of Duties

Purchase Orders must be approved by a different person than the originator.

10.3. Timing of Approval

Approval must be obtained from an appropriately Authorised Officer before an offer is accepted;

- in the case of acceptance of an Offer by Purchase Order, prior to forwarding a Purchase Order to a Supplier, or
- in the case of acceptance of an Offer by entering into a Contract, prior to advising the Supplier that its Offer has been accepted.

10.4. Unbudgeted & Over-budget Purchases

No Goods, Services or Works may be procured unless they have been included in an approved budget. Expenditure which does not form part of an approved budget may not be incurred or committed without formal approval of the Administrator.

Where the value of a Procurement is likely to exceed the budget for that activity, formal approval of the Administrator is required before an Offer is accepted.

10.5. Contract Variations

Contract variations costing 5% or more of the original contract value or resulting in a cumulative cost variation of 10% or more of the original contract value must be approved as if the new (varied) total contract value is being approved.

11. RECORDS

Council must record reasons for utilising any procurement method other than those outlined in paragraph 8.1.

The Council must maintain records of procurement activities in accordance with the State Records Act 1997 and Council's Records Management Policies and Procedures.

At a minimum, documentation which details the Procurement Method, Risk, Evaluation Plan and Evaluation Result, must be prepared and maintained for each relevant procurement.

The method of capturing Procurement Activity records is through use of established templates available to all council employees.

Document requirements and location of all documents for all procurement is detailed in Procedure – Procurement information Management (*Magiq Doc ID: 116248*)

12. CONDUCT OF OFFICERS

Council officers involved in the Procurement process will at all times undertake their duties in an ethical and impartial manner with the highest level of integrity.

- Electronic version on the Intranet is the controlled version.
- Printed copies are considered uncontrolled.

Before using a printed copy, verify that it is the current version.

Officers will not engage in any activity that would create a conflict between personal interests and the interests of the Council.

Council employees are bound by a Code of Conduct which addresses issues such as conflict of interest, gifts and hospitality and improper influence.

Officers with actual or perceived conflicts of interest are required to complete a Declaration (*Magiq Doc ID 367684*) as evaluated during completion of the Risk Assessment.

13. PROCUREMENT AUDITS

Regular internal review of procurement practices and their alignment with the policy are scheduled to occur. Internal financial self-assessment of internal controls including procurement will occur on a risk basis as per the better practice model. Results of the self-assessment of internal controls will be tabled at Management & Audit & Risk Committee Meetings.

Councils external Auditor will also conduct periodic reviews of Council Procurement as per their audit plan.

14. PROCUREMENT TRAINING & SUPPORT

New Council Officers with Financial Delegation will undertake internal Procurement Policy Training facilitated by Council's Finance Department. Annual refresher training on Procurement Requirements will also be provided.

Ongoing support in procurement best practice will be provided by Council's Finance Department and will include ease of access to the Procurement Policy and other associated required documentation.

15. PUBLIC ACCESS TO POLICY

Sections 49(4) and 132(1)(a) of the Local Government Act 1999 entitle a person to inspect (without charge) this Policy at the principal business office of the Council during ordinary business hours.

Under S 49(5) and S 32(1)(b), a person is entitled, on payment of a fee fixed by the Council, to a copy of this Policy.

Section 132(3)(d) requires that the Council should, so far as is reasonably practicable, make this Policy available for inspection on the Internet within a reasonable time after the Policy is available at the principal office of the Council.

16. POLICY REVIEW

This policy will be reviewed every three (3) years. Amendments to the Policy will not affect Procurement initiatives that have already involved formal approaches to the Market - i.e., issuing of Request for Tender (RFQ), Tender or equivalent documentation to potential Suppliers.

ANNEXURE 1 – PURCHASES THAT DO NOT REQUIRE A PURCHASE ORDER

- Banking Services
- Courier Services
- Credit Card Purchases
- Debt Collection
- Employee Assistance Program Costs
- Insurance Payments
- Labour Hire
- Lease and Rental Payments
- Legal Services
- Licence and Membership Fees
- Medical Treatment and Tests
- Online Services
- Phone Accounts
- Photocopier Services
- Postal Services
- Refunds or reimbursements
- Software Licences and Maintenance
- Statutory Government Charges
- Subscriptions
- Taxi Fares
- Travel and Accommodation
- Utilities
- Vehicle Registrations
- Vehicle Servicing
- Woolworths Card Purchases