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1. PREAMBLE

1.1 Background

- 1.1.1 The City of Holdfast Bay (Council) procures a wide range of products and services as part of normal business operations and to provide specific services to rate payers.
- 1.1.2 Council has the power to enter into contracts under the Local Government Act 1999.
- 1.1.3 Section 49 of the Local Government Act 1999, requires Council to prepare and adopt policies on contracts and tenders, including:
- The contracting out of services
 - Competitive tendering and other measures to ensure that services are delivered cost effectively
 - The use of local goods and services
- 1.1.4 The specific requirements for contract and tender policies pursuant to Section 49 of the Act must:
- Identify circumstances where the Council will call for tenders for the supply of goods, the provision of services or the carrying out of works
 - Provide a fair and transparent process for calling tenders and entering into contracts in those circumstances
 - Provide for the recording of reasons for entering into contracts other than those resulting from a tender process.
- 1.1.5 Council in general relies on the use of contracts to provide services to ratepayers and to fulfil Council functions.

1.2 Purpose

The Council is committed to providing best value to the community within the framework of fairness, transparency and accountability. The community and business operators have a valid interest in the approach adopted by the Council in purchasing goods and services and entering into contracts. Council ensures that purchases are made in the best interests of the community and in accordance with Council's Strategic Plan and legislative requirements.

1.3 *Scope*

This policy applies to all contracts and tenders organised by Council employees and associates on behalf of Council. This document outlines:

- 1.3.1 the principles that should be applied to all purchases
- 1.3.2 the purchasing methods available and when they should be used
- 1.3.3 risk management considerations.

1.4 *Strategic Reference*

A place that provides value for money.

2. PRINCIPLES

2.1 *Procurement Principles*

Council is committed to using the six core principles outlined below when selecting suppliers:

- 2.2.1 Value for Money: best value includes price; whole-of-life costs; and the value of any environmental, social and economic benefits.
- 2.2.2 Transparent, Accountable, Fair and Ethical Standards: procurement activities must meet both ethical and professional standards through transparent processes. Employees must comply with the Code of Conduct for Council Employees and legislative requirements, being impartial, fair, open and professional.
- 2.2.3 Social and Environmental Sustainability: purchases will align with Council's Climate Change Policy and the principles of environmentally responsible action, conserving natural resources, waste minimisation and recycled and environmentally preferable products, providing leadership to business, industry and the community. Businesses that provide or support social enterprise should also be utilised.
- 2.2.4 Local Economic Development: to the extent permitted by law, utilise local providers and provide local businesses the opportunity to quote and give preference to goods made locally and suppliers whose activities contribute to local economic development.
- 2.2.5 Work Health and Safety: Council has an obligation to ensure that all suppliers are compliant with the Work Health and Safety Act 2012, as well as being competent in the provision of the goods or services.
- 2.2.6 Fit for Purpose: It is a requirement that all services and materials sourced for Council projects, including steel, meet relevant Australian standards for design, manufacture and fabrication. These requirements should be clearly outlined to suppliers during the purchasing process.

- 2.2 Council will provide a Supplier Charter which clearly communicates Council's commitments and expectations in all procurement activities.

3. PARAMETERS

3.1 *Financial and Contractual Delegations*

- 3.1.1 Under the Local Government Act 1999 (Section 101) the Chief Executive Officer has delegated authority with respect to expenditure of Council funds, which has been sub-delegated to employees through the sub-delegations document.
- 3.1.2 Under the Local Government Act 1999 (Section 36) the Chief Executive Officer has delegated authority with respect to entering into any kind of contract or agreement, which has been sub-delegated to Managers in accordance with their financial delegations through the sub-delegations document.

3.2 *Procurement Processes*

Tenders will be called for contracts in excess of \$50,000 provided that a competitive process is practicable and will deliver greater benefit than other methods. Approval of the Chief Executive Officer is required if another purchasing method is to be used for a purchase valued up to \$100,000 with Council to be notified at its next meeting. Council approval is required if another purchasing method is to be used for purchases in excess of \$100,000.

3.3 *Value of the purchase*

The value of the purchase will be calculated as follows:

- 3.2.1 One-off purchase: the total value of the purchase
- 3.2.2 Multiple purchases: the total value of items/ purchases for a particular project.
- 3.2.3 Ongoing purchases: the annual value of the purchases from the supplier.

3.3 *Purchasing Methods*

When purchasing goods and services there are a number of transaction methods which can be used to select and contract with the supplier. The underlying principle is to balance the transaction costs associated with each transaction method, with risk and probity. Purchases which are low value, low risk or low complexity should be acquired through the more efficient processes of credit cards, direct purchase or panel arrangements. Those items which are high value, high risk and/or high complexity should be acquired through the more stringent processes of a tender. Transaction costs are lowest with methods such as credit cards, and higher for methods such as tenders.

The decision matrix outlines when different transacting methods should be used.

PROCUREMENT POLICY

Value of purchase	Direct Purchasing	Quotations (3 quotes)	Tender open/select	Panel Contracts	Strategic Procurement
< \$5000	X				
\$5,000 - \$20,000		X phone/email		X	
\$20,000 - \$50,000		X in writing		X	
> \$50,000			X	X	X

3.4 Roles and Responsibilities

- 3.4.1 Employees will ensure all purchases they initiate comply with this policy, financial and contractual delegations, and act with integrity and in good faith at all times when dealing with suppliers.
- 3.4.2 The Governance Team will assist employees in establishing tender documentation, provide advice to tender evaluation teams, provide advice to Managers and staff on contract commercial strategy, and act with integrity and in good faith at all times when dealing with suppliers.
- 3.4.3 Specific roles and responsibilities for a tender process are outlined below:

	Employee	Manager	Governance
Develop Scope of Works	R	A	C
Prepare Tender Documents	C	A	R
Determine Commercial Strategy	R	A	C
Perform Evaluation	R		C
Recommendation for Award of contract	R	A	C
Negotiate Contract	R	A	C
Execute Contract	C	A	R
Contract Management	R	A	

R = Responsible, A = Approve/Authorise, C = Consulted

3.5 Exemptions from this Policy

- 3.5.1 In certain circumstances and emergencies the Chief Executive Officer or Council's Elected Members may, waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this Policy.
- 3.5.2 Where a purchase is made under this section, the following will apply:
- Details of a waiver of the application of this policy by the Chief Executive Officer must be reported to Council.
 - Expenditure must be within the Delegation of Authority;

- Expenditure should be limited to that required to alleviate the emergency situation only; and
- Officers must ensure that appropriate methods of purchase are resumed as soon as practicable (i.e. purchase order generated, quotations sought for remainder of the goods, works or services other than that required for the emergency response).

3.6 Prudential Requirements

It is a requirement that a Prudential Report is prepared for projects exceeding a prescribed value, prior to any purchasing being undertaken. For further details refer to Councils Prudential Management Policy.

3.7 Payment options

All purchases over a prescribed limit must be linked to a purchase order prior to receiving the goods or services. Goods and Services will be paid for on the receipt of an invoice from a supplier, emailed directly to a designated central email address.

Exemptions to the requirement for a purchase order include:

- 3.8.1 Petty Cash: Employees may receive an advance or reimbursement of expenses to a limit of \$100 for one-off purchases where Council does not have an account with the supplier.
- 3.8.2 Credit Cards: for purchases of \$2,000 or less which are low risk and low complexity.
- 3.8.3 Payment on invoice: Invoices with a value less than the prescribed limit.
- 3.8.4 Payment Requisition: A payment requisition form should be completed for purchases that do not have an invoice (eg. Staff reimbursements).

3.8 Purchases less than \$5,000

A quote should be obtained from the preferred supplier, then they may be engaged to supply the good or services.

3.9 Quotations \$5,000 - \$50,000

- 3.9.1 Use of direct purchasing using quotations is an efficient means of procuring goods and services without a tender. It also allows for competition by requiring three quotes where the purchase is over \$5000.
- 3.9.2 For purchases less than \$20,000 if it is not practical to obtain 3 quotes in writing, the quotes may be obtained over the phone or by email, but all details must be recorded on a Request for Quote form and retained in the document management system for probity purposes.
- 3.9.3 For purchases between \$20,000 and \$50,000 three written quotes should be obtained from the supplier, and preferably be on the supplier's letterhead. A copy of all three quotes should be retained in the document management system for probity purposes.
- 3.9.4 If Council has a Panel Contract in place for the supply of goods or services, purchases may be made directly from any of the suppliers on the panel, without the need to obtain quotes, or seek tenders (as long as the

contract contains a specific price for the items being purchased). Purchasers may choose to obtain quotes from more than one supplier on the panel depending on the value and nature of the purchase.

3.10 Tenders, purchases over \$50,000

3.10.1 Determine Requirements

A tender process must be used where the purchase is greater than \$50,000. For smaller goods, services or works that are purchased frequently throughout the year, the total quantities and value for a 12 month period must be used to determine the value of the purchase (\$1,000 item, once a week = \$52,000 = tender required). For larger goods, services or projects, the length of the contract must also be taken into consideration (\$20,000 per annum x 3 year contract = \$60,000 = tender required).

Tenders can be an open or select tender or a two stage process with an Expression of Interest followed by tender. Council is also able to join tender processes conducted by strategic alliances. The Procurement Officer should be consulted to assist with the tender process.

3.10.2 Prepare Request for Tender (RFT)

In the case of a RFT it is important that the tendering conditions are well documented for probity purposes and that the selection criteria have been clearly defined. The Procurement Officer will assist in developing the documentation. A RFT includes:

- Conditions of Tender: the rules that govern the tender process
- Specification: describes what is being purchased
- Tender Response: provides the Tender form to be submitted
- Conditions of Contract: based on standard templates.

3.10.3 Determining Commercial Strategy

When structuring the RFT and Contract strategy the Council should consider different contracting arrangements and pricing strategies and consider how this will impact the delivery of services. The Procurement Officer should be involved to ensure the contract will make commercial sense, and risks have been addressed. It may also be necessary to engage an external Probity Auditor, depending on the nature of the purchase (high value, high risk, controversial, public interest).

3.10.4 Develop Evaluation Criteria

The use of well-defined evaluation criteria ensures that the decision to select a supplier is objective and fair. Evaluation criteria will usually address compliance with contract terms and conditions, the technical merit of the goods or services offered, the skills of the tenderer to fulfil the specified requirements and an assessment of the risks or constraints associated with each offer.

3.10.5 Release tender

The tender should be released to the public and formally advertised. The tender period (minimum 21 days) should allow potential respondents

sufficient time to respond. Some projects may require detailed information to be provided with a tender briefing or site visits. During the tender period, if circumstances change or additional information is required, all organisations that have sought the RFT documents must be informed.

3.10.6 Evaluating the Tender

All tenders must be opened after the closing time and be reviewed by multiple people. The tender evaluation team will make an assessment against the weighted evaluation criteria. The results must be formally documented for probity purposes and placed on file with a copy of the tender. The tenderers' expertise, experience and financial stability may be validated via reference checks.

3.10.7 Recommendation for award

On completion of the evaluation, the selection decision should be documented as a Tender Evaluation Report. The report should be reviewed by the Procurement Officer and approved by the relevant Manager in accordance with financial delegations.

3.10.8 Negotiate final contract terms

Once the recommendation for award has been approved, the Council will notify the preferred tenderer and begin final negotiations. The Procurement Officer should be involved in this process.

3.10.9 Execute contract

Once the terms and conditions have been agreed the contract should be awarded by execution of a formal contract, prepared by the Procurement Officer. The contract must be signed by a Manager with the appropriate financial delegation. All tenderers should be advised of the outcome.

3.10.10 Contract Payments

Once the contract has been signed by both parties, a purchase order must be raised in Council's Finance System to commit the funds. This can be done for individual purchases, or as standing orders for ongoing purchases, or longer term projects where progress payments will be made. The purchase order must be approved by a Manager with the appropriate financial delegation, this approval to spend the money is also approval to pay invoices associated with the order.

3.11 **Expression of Interest (EOI)**

An EOI allow Councils to elicit information without any obligation to commit. They are useful where the Council is unsure which suppliers are in the market or the scope/budget for a project or where the Council wishes to obtain some conceptual suggestions. The EOI follows a similar process to a tender but is less detailed, and does not include a contract. An EOI may form part of a two phase tender process, where EOI respondents may be short-listed for a select tender.

3.12 Panel Contract

Panel Contracts consist of multiple suppliers that can supply Council with goods, works or services on a regular or ad hoc basis. Under a panel arrangement a tender is undertaken to select a group of suppliers which provide the services and have the capability to meet the Council's needs. Council can then purchase items directly from that supplier in accordance with the contract rates, without the need to obtain quotes. Panel arrangements should operate for approximately three years.

3.13 Strategic Alliance

Strategic alliances may be appropriate where Council can increase its purchasing power by partnering with another Council, representative body or supplier. Strategic alliances allow the Council to negotiate lower costs for standard goods and services.

3.14 Records

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

3.15 Contract management and administration

- 3.15.1 It is important that the contract is managed diligently to maximise the outcomes and minimise risk. An employee should be appointed as the Contract Manager to represent the Council when engaging the supplier.
- 3.15.2 The Contract Manager should review all invoices over \$5000, or where there is a discrepancy between the purchase order and invoiced amount, to ensure charges are in accordance with the contract terms and conditions. They must also verify that the percentage of work complete and invoiced is accurate.
- 3.15.3 The Council must review all contract variations and make an assessment whether they are part of the original contract scope. Variations must be approved in accordance with financial delegations. It may be necessary to re-tender the variation, to ensure open and fair competition.
- 3.15.4 The City of Holdfast Bay will require contractors and consultants engaged to undertake activities on the Council's behalf, who work with children and vulnerable people on a regular basis, to comply with Council's Children and Vulnerable Persons Policy.
- 3.15.5 For further details on Contractor Management refer to the WHS Contractor Management Procedure.

3.16 Risk and Opportunity Management

- 3.16.1 Council must ensure that appropriate practices and procedures of internal control and risk management are in place for its procurement activities.
- 3.16.2 Council must ensure the suppliers have sufficient professional indemnity, public liability and personal injury insurance.

4. REFERENCES

4.1 *Legislation*

- 4.1.1 Local Government Act 1999
- 4.1.2 Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010
- 4.1.3 Environmental Protection Act 1993
- 4.1.4 Work Health and Safety Act 2012

4.2 *Other References*

- 4.2.1 Disposal of Assets Policy
- 4.2.2 WHS Contractor Management Policy
- 4.2.3 WHS Contractor Management Procedure
- 4.2.4 Internal Purchasing Policy
- 4.2.5 Internal Tendering Policy
- 4.2.6 Instrument of Sub-delegations under the Local Government Act 1999
- 4.2.7 Prudential Management Policy
- 4.2.8 Climate Change Policy
- 4.2.9 Supplier Charter
- 4.2.10 Children and Vulnerable Persons Policy