

<b>Division / Branch</b>	Corporate Support Division
<b>Responsible Officer</b>	Glen Magus
<b>Endorsed by General Manager / ExCo on</b>	31 January 2022
<b>Amendment History</b>	12 August 2013 30 January 2017 2 March 2020
<b>Related Determinations / Policies</b>	POL00225 – Lease Financing
<b>TRIM Folder</b>	F2010/00025

## Objectives

1. To acquire, through competitive tendering, works, services, facilities, goods, material, equipment and lease finance at the most competitive price having regard to all surrounding circumstances.
2. To dispose of property of the Council through competitive tendering.

## Determination

1. Tenders must be invited for all contracts referred to in Section 55(1) of the Local Government Act 1993. Exceptions apply in circumstances listed in Section 55(3).
2. Tenders may be invited for any works, services, facilities, goods, material, equipment and lease finance under \$250,000 (excluding GST), if Council believes a benefit may be achieved by encouraging competition through competitive tendering.
3. Where open tendering and/or selective tendering (refer Sections 166-169 of the Regulation) is to be used for proposed contracts, advice is to be included in the Councillor Weekly Communication (CWC) outlining the details of such tenders which are to be advertised that week. The aim of such notice is to provide Councillors with an opportunity to discuss with the General Manager whether the results of the tender process should be the subject of a report to Council when completed rather than be accepted/declined by the General Manager in accordance with his/her delegation under section 377 of the Local Government Act 1993.

There are instances in which the General Manager may decide not to use his/her delegation and instead arrange for the tender to be the subject of a report to Council e.g.

- a. Where the proposed contract is considered to be of significant public interest,
- b. Where the General Manager has or may be perceived to have a conflict of interest,
- c. Where the proposed contract has an estimated value that is greater than 10% of Council's annual ordinary rate revenue – noting that this is a threshold used by the Office of Local Government in their Capital Expenditure Guidelines.

4. The exception to the above is where a proposed tender is for the provision of services currently provided by members of staff of Council. When this is the case, two reports are to be prepared for Council's consideration, one at the commencement of the process to advise Council that tenders are being invited and the other a recommendation arising from the tender evaluation. Such tenders may only be accepted by Council as they are not able to be delegated for decision by the General Manager.
5. No contract shall be broken into separate parts to circumvent these requirements for competitive tendering.
6. Lobbying of councillors and staff by, or on behalf of a tenderer, may disqualify that tenderer.
7. Incentives offered by tenderers shall not personally benefit public officials including councillors and/or Council staff.
8. Tenders for large constructions must be undertaken in line with the Capital Expenditure Guidelines issued by the Office of Local Government including obtaining probity advice when required.
9. Tenders above the approved allocated budget for the works must not be recommended for acceptance without documented written approval from the relevant Director and Chief Financial Officer.
10. Council (or the General Manager under delegation) has no obligation to accept the highest, lowest or any tender submitted.
11. Compliance is necessary with the requirements of Sections 55 and 377 of the Local Government Act 1993, the Local Government (General) Regulation 2021, this Policy and the related Tendering Procedure developed by the Financial Services Branch.
12. Compliance is required with current Tendering and Procurement Procedures and Circulars as advertised by the Office of Local Government.
13. Refer also to policy – 'Lease Financing'.

#### Legal Oversight and Contract Variations

14. All standard contract conditions must be reviewed 3 yearly by a panel lawyer.
15. Any tender where Council is initiating changes to the standard contract conditions are required to have legal sign-off from a panel lawyer before the tender is advertised.
16. All lump sum tenders are required to have the tender plan sent to a panel lawyer for review to provide assurance that Council's standard contract conditions are appropriate for the subject tender and no amendments are required, or suggested amendments provided.
17. Any variations to the contract conditions sought by the preferred tenderer are required to have legal sign-off from a panel lawyer before the tender is recommended to be accepted.



## Tenders Determination

### Contract Execution

18. The contract must be issued by Council to the contractor within 28 days from the date of acceptance of the tender, with a requirement for the signed contract to be returned to Council within 14 days of issue of the contract.

### Variation

Council reserves the right to vary or revoke this determination and procedure. Variations will be communicated to staff.