

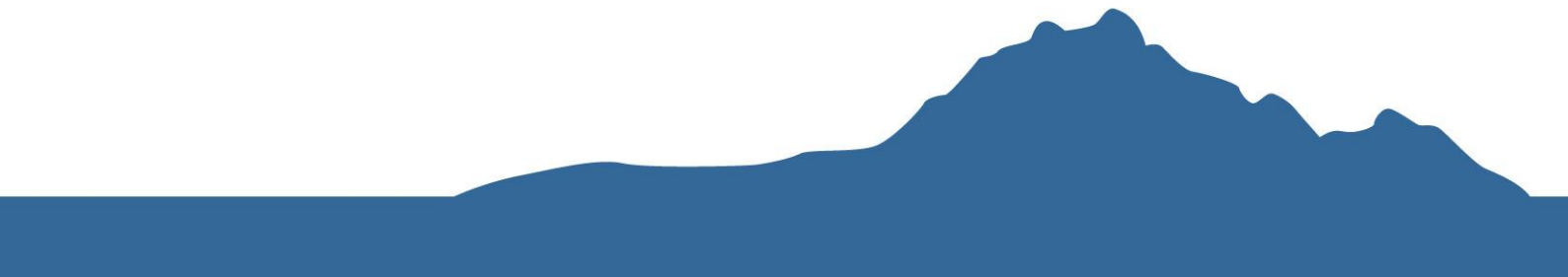


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Code for Tenders and Contracts

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POLICY- CODE FOR TENDERS AND CONTRACTS



1.0 INTRODUCTION

Pursuant to section 333B of the *Local Government Act 1993* (Tas) (the Act), Flinders Council (Council) is required to adopt and comply with a Code for Tenders and Contracts (the Code), which must:

- be consistent with the Act;
- include any prescribed matter; and
- promote any prescribed principles as set out in the *Local Government (General) Regulations 2025 (Tas)* (the Regulations);
- be reviewed at least every four years; and
- detail Council's specific legislative and regulatory obligations with respect to procurement per:
 - Section 333A and Section 333B of the Act; and
 - Regulations 23–29 of the Regulations.

1.1. PURPOSE

The purpose of the Code is to provide a framework for best practice procurement. The Code sets out how Council meets its legislative obligations in respect to procurement, tendering and contracting.

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 council
- minimise the cost to suppliers of participating in the tendering process
- allow council to appropriately manage risk
- promote council's economic, social and environmental plans and policies
- Provide guidance on required standards of ethics and best practice to Council and Service Providers

1.2. SCOPE OF THE CODE

This Code covers the procurement of goods, services and works for Council including building and construction, civil works, plant and equipment and consulting services. These Tender practices **do not** apply to the following activities:

- design and execution of works of art
- donations
- property transactions including valuation
- leasing
- Performers at/or Events

The Code is made up of policy and procedure documents, which together form The Code. It applies to Council, its employees and agents and any Service Provider wishing to apply for Council business or provide goods, services or works to Council. This includes contractors, consultants and suppliers. Insofar as is reasonably possible, Service Providers engaged by Council will apply the Code when seeking Tenders or Quotations from subcontractors and suppliers. The Code applies to all Council procurement processes including tenders, requests for quotations, requests for proposals and expressions of interest for goods, services and works as required.

Council routinely receives unbudgeted income throughout the year i.e. election commitments and grants funding. Once this funding stream has been approved by Council this Code will apply as per approved budget.

1.3. AVAILABILITY OF THE CODE

A copy of the Code is available free of charge:

- at the Flinders Council Offices, 4 Davies Street, Whitemark
- from Monday–Friday, 8.30am – 4.30 pm
- on the Council website at flinders.tas.gov.au/tenders

2.0 PROCUREMENT THRESHOLDS

The purchasing thresholds describe when Quotations and Tenders are to be sought. Projects shall not be split into smaller purchases to avoid the requirements of purchasing thresholds.

Purchasing Estimate	Minimum Documentation Requirement	Minimum Advertising Requirements	Documents Required	Approval
Less than \$5,000	Verbal quotation	Nil	Notation of verbal quotation on Purchase Order	Per approved budget and delegation register
From \$5,000 to \$29,999	2 written quotes (From separate providers)	Nil	Written assessment of quotes + Purchase Order	Per approved budget and delegation register
From \$30,000 to \$119,999	3 Written quotes (From separate providers)	Nil	Written assessment of quotes + Purchase Order	Per approved budget and delegation register
From \$120,000 to \$249,999	Request for Quote (RFQ) process.*	Council Website and external media/tender provider	Quotation Evaluation Panel (QEP) recommendations to GM + Purchase Order + Contract.	General Manager
From \$250,000 to \$499,999	Request for Tender (RFT) process.*	Council Website and external media/tender provider	Tender Evaluation Panel (TEP) recommendations to GM + Purchase Order + Contract.	General Manager or Council Decision

Purchasing Estimate	Minimum Documentation Requirement	Minimum Advertising Requirements	Documents Required	Approval
From \$500,000 and above	Request for Tender (RFT) process.*	Council Website and external media/tender provider	Tender Evaluation Panel (TEP) recommendations to GM and to Council + Purchase Order + Contract.	Council Decision

All procurement thresholds are GST exclusive. Tenders and Quotations will be sought on a GST exclusive basis.

* Thresholds may also include Expression of Interest (EOI) and Early Contractor Involvement (ECI) procurement methods.

2.1. NON-APPLICATION OF THE QUOTATION PROCESS

Exemptions from the requirement to seek written quotes under the quotation thresholds above can be sought from the General Manager in exceptional circumstances such as:

- a) where, in response to a prior notice, invitation to participate or invitation to Quote
 - (i) no Quotations were submitted
 - (ii) no Quotations were submitted that conform to the essential requirements in the documentation
- b) where the goods, services or works can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for the following reasons
 - (i) the requirement is for works of art, performers or events
 - (ii) the protection of patents, copyrights or other exclusive rights or proprietary information
 - (iii) A continuation of a service agreement
or
 - (iv) due to an absence of market competition for technical reasons
- c) for additional deliveries of goods, services or works by the original supplier that are intended either as replacement parts, extensions or continuing services, where a change of supplier would result in the purchase of goods, services or works that do not meet requirements of interchangeability with existing goods, services or works
- d) where there is an emergency and insufficient time to seek quotes for goods, services or works required in that emergency
- e) for purchases made under exceptional circumstances, deemed reasonable by the General Manager.
- f) where a quotation was received within the last three months for the same goods, services or works (e.g. a recent value for money comparison was made).
- g) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy, or receivership and not for routine purchases from regular suppliers
or
- h) for a joint purchase of goods or services purchased with funds contributed by multiple entities, where Council is one of those entities and does not have express control of the purchasing decision.

2.2. NON-APPLICATION OF THE PUBLIC TENDER PROCESS

In accordance with section 27 of the Regulations, the requirement for public tendering does not apply for the following situations:

- a) Where there is an emergency, and if, in the opinion of the General Manager there is insufficient time to invite Tenders for the goods or services required in that emergency – prior to exercising this process the General Manager will consult with the Mayor regarding consideration of non-application of the code.
- b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth
- c) 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
- d) a contract for goods or services obtained as a result of a Tender process conducted by one of the following entities
 - (i) another council
 - (ii) a single authority or a joint authority
 - (iii) the Local Government Association of Tasmania
 - (iv) any other local government association in this State or in another State or a Territory
 - (v) any organisation, or entity, established by any other local government association in this State or in another State or a Territory
- e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a Tender
- f) a contract for goods or services that is entered into at public auction
- g) a contract for insurance entered into through a broker
- h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance
- i) a contract for goods or services, if by Council resolution and states the reasons for the decision, being that a satisfactory result would not be achieved by inviting Tenders because of one of the following reasons
 - (i) extenuating circumstances
 - (ii) the remoteness of the locality
 - (iii) the unavailability of competitive or reliable Tenderers
- j) a contract of employment with a person as an employee of the council.

3.0 PROCUREMENT PRINCIPLES

Council's purchasing will be conducted in line with legislative requirements and in accordance with the following principles:

3.1. VALUE FOR MONEY

Value for money is achieving the desired outcome at the best possible price. Factors which may be considered when determining value for money include:

- fitness for purpose
- whole-of-life costs over the lifetime of the product, good or service
- advantages of buying locally (e.g. shorter delivery lead-times, availability of local back-up and servicing and availability of spare parts)
- supplier's capacity and ability, including management and technical capability and physical and financial resources
- environmental considerations and energy conservation
- contribution to achieving one or more of Council's policies or strategic objectives

- social or community benefit
- risk assessment
- quality assurance
- disposal value.

3.2. FAIR DEALINGS

Ethical behaviour and fair dealing means acting ethically, being fair and unbiased and complying with the law in all dealings with Service Providers. The following standards of ethics and ethical behaviours shall be applied when dealing with suppliers:

- ensuring Council monies are spent effectively and in accordance with relevant policies
- acting without favour or prejudice
- complying with legal requirements
- always seeking to maximise the value for money in all transactions
- maintaining confidentiality at all times in dealings with Service Providers
- declining gifts, gratuities or any other benefit which may, or could be deemed to, influence equity or impartiality
- not disclosing the bid of a Service Provider to any other provider.
- not discussing matters of procurement or tender with anyone seeking information other than via internal procurement channels.

3.3. ENCOURAGING OPEN AND EFFECTIVE COMPETITION

Encouraging open and effective competition means ensuring that the procurement process is impartial, open and focussed on encouraging competitive offers. Open and effective competition will be encouraged through:

- putting transparent, open purchasing procedures in place
- ensuring the market is adequately tested by seeking an appropriate number of Quotations or calling for public Tenders
- avoiding use of biased or proprietary specifications
- if requested, de-briefing unsuccessful providers
- treating all Service Providers consistently and equitably.

3.4. ENHANCEMENT OF THE CAPABILITIES OF LOCAL BUSINESS AND INDUSTRY

Enhancement of the capabilities and opportunities of local business and industry means where local capacity exists, actively seeking to engage the local market and encourage their participation in Tender and Quotation processes, through:

- actively seeking quotes from local businesses and industry
- where local capability exists, ensuring that the discretionary elements of specifications do not prevent local businesses and industry from competing.

Enhancing opportunities for local business and industry does not mean giving preferential treatment to local Service Providers.

4.0 CONDUCT

4.1. ETHICS AND CONDUCT

Council's officers, Elected Members or any other person or entity making a purchase on Council's behalf, will comply with the following ethical standards of behaviour:

- the Procurement Process will be undertaken in accordance with this Code and all applicable procedures
- actual or potential conflicts of interest will be declared before inviting offers and measures put in place to appropriately manage any actual or potential conflicts of interest, monetary or otherwise
- accurate records of all dealings in respect to the purchase will be maintained during and after the process
- declining to accept any payments, gifts, gratuities, entertainment/hospitality and other benefits offered by a Service Provider for the discharge of official duties and the documenting of any offers
- avoiding any situation which is, or which may become, or which may be perceived as being a conflict of interest with the person's official duties and declaring any conflicts of interest
- avoiding any relationship with a Service Provider, financial or otherwise, which could be perceived as unfair or improper influence on their judgement, or which could expose Council to allegations or perceptions of impropriety or unwarranted preference. unfair dealings or which could represent a breach of legislation
- for any person, not attempting to intervene or exert influence on the outcomes of the Procurement Process, in particular not communicating or implying any preference for the selection of a particular Service Provider.

The role of Councillors in dealings of procurement must be highlighted at the time of any matter of procurement which is before them. Any conversations by prospective tenderers about a matter of procurement with a Councillor, in their capacity as a decision maker, must be reported to the procurement team handling the matter.

Whenever dealing with Service Providers, Council's officers will:

- clearly convey Council's requirements in an understandable manner and ensure that all Service Providers are provided with identical information upon which to base their Tender or Quotation
- ensure that a Service Provider is not provided with any information or clarification of the Specification or other Tender or Quotation document, which is not equally provided to all other Service Providers
- seek to minimise the cost to suppliers of participating in the Tender process
- ensure that Service Providers are provided with a specification or other statement of Council's requirements, which is sufficient to ensure that Service Providers are not required to undertake unreasonable unpaid design or other work in order to prepare a Tender or Quotation
- ensure that the Conditions of Contract are not excessively onerous on Service Providers
- as far as is practicable, ensure that the Specification does not restrict competition, prevent local businesses and industry from submitting a Tender or Quotation or reflect bias either towards or against any brand or proprietary system or method of work
- in so far as possible, ensure that the Specification does not act as a barrier to innovation
- if any particular Conditions of Participation, Conditions of Tender, or Conditions of Contract apply, advise Service Providers of these when inviting offers

- advise Service Providers of the evaluation criteria, and if applicable the weightings, which will be used to evaluate offers at the time of invitation and ensure that the same criteria are used to evaluate all of the offers received
- if offers are to be evaluated using weighted criteria, apply the procedure for Tender evaluation set out under the Tender Practices section of this Code
- not solicit or accept remuneration or other benefit from a Service Provider for the discharge of official duties.

4.2. ETHICS AND CONDUCT – SERVICE PROVIDERS

Whenever participating in a Council procurement process in any capacity, a Service Provider:

- will ensure they are acquainted with Council's requirements and all matters relating to the Tender or the Quotation and the proposed contract
- will not submit a Tender or Quotation unless they have the financial, technical, physical, management, resource, ethical and other capabilities to fulfil Council's requirements
- will apply Procurement Principles and the standards and ethics required by this Code in its dealings with contractors, subcontractors, suppliers and agents
- must not engage in any uncompetitive behaviour or other collusive practices, which deny or reduce legitimate business opportunities to other potential suppliers
- must at all times act in observance of all laws
- must not engage in acceptance or provision of secret commissions
- must not collude with other suppliers, potential or otherwise
- must not enter into improper commercial arrangements with other contractors, subcontractors, suppliers or agents
- must not attempt to contact any Council officer or councillor not nominated as contact person to deal with enquiries
- must not seek to influence the procurement process by any improper means whatsoever
- must not accept incentives to provide contracts or services to other contractors, subcontractors or agents
- must declare any matter or issue which is, or which may lead to or which could be perceived as, a conflict of interest regarding their participation in a procurement process or a contract to fulfil Council's requirements immediately upon the Service Provider becoming aware of the matter or issue.

If engaged by Council to provide goods, services or works of any nature a Service Provider will:

- act in a polite and courteous manner towards Council officers and agents and towards members of the general public
- refrain from the use of aggressive or inappropriate language and expressions and not act in an aggressive or threatening manner towards Council officers, agents and members of the general public
- insofar as is reasonably possible apply the standards and ethics required by this Code in its dealings with any contractors, subcontractors, suppliers or agents
- put in place and maintain policies, systems and procedures for workplace health and safety management, environmental management, and quality assurance, appropriate to the applicable level of complexity and risk associated with performance of Council's requirements
- comply with the provisions of awards and workplace arrangements which have been certified, registered or approved under relevant industrial relations legislation

- 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
- make payments to employees, subcontractors, suppliers, consultants and agents in a timely manner
- not offer gifts, gratuities, entertainment/ hospitality and other benefits to a Council officer for the discharge of official duties.

Service Providers must not collude to influence the outcomes of a Procurement Process. Collusive behaviour includes but is not limited to:

- agreements between Service Providers as to who should be successful in winning Council's business
- any meeting of Service Providers prior to the submission of their Tender or Quotation that may disadvantage Council
- agreement between Service Providers for payment of money or securing of reward or benefit for unsuccessful Service Providers by the successful Service Provider
- agreement or collaboration between Service Providers to fix prices or Conditions of Contract
- submission of a cover Tender or Quotation or any assistance to another person to submit such a cover Tender or Quotation, that is intended to advantage another Service Provider or disadvantage Council
- any unlawful agreement between Service Providers before submission of Tenders or Quotations such as fixing a special rate of payment to a third party where the payment of such fees is conditional on that Service Provider being awarded a Contract
- any unlawful agreement providing for payment to any third party of money, incentives or other concessions contingent on the success of a Service Provider which do not relate to the provision of bona fide services relevant to that Tender or Quotation.

5.0 REPORTING

5.1 ANNUAL REPORTING

For the purposes of section 72(1)(e) of the Act and *Local Government (General) Regulations 2025* 30(1), where, in a financial year, a council enters into or extends (under regulation 24(5)(b)) a contract for the supply or provision of goods or services valued at or exceeding \$250,000 (excluding GST), council will include the following information:

- a description of the contract
- the period of the contract
- the periods of any options for extending the contract
- the value of any Tender awarded or, if a Tender was not required, the value of the contract (excluding GST)
- the business name of the successful contractor
- the business address of the successful contractor
- any other prescribed matter

Where approval has been given for nonapplication of the Tender or Quotation process in accordance with regulation 28(a) and (i) of the Regulations, Council's annual report will include the following information:

- a brief description of the reason for not inviting public Tenders
- a description of the goods or services acquired

- the value of the goods or services acquired
- the name of the contractor.

For the purposes of section 72(1)(e) of the Act, where in a financial year, a contract, for the supply or provision of goods or services valued at or exceeding \$100 000.00 (excluding GST) but less than the \$250 000.00 (excluding GST) is, entered into, or extended, Council's annual report for that financial year will include the following information:

- a description of the contract
- the period of the contract
- the periods of any options for extending the contract
- the value of the contract (excluding GST)
- the business name of the successful contractor
- the business address of the successful contractor
- any other prescribed matter.

5.2 REPORTING TO COUNCIL

For purchases with a value equal to or exceeding the value where three written Quotations are required, the number of instances of non-application of the requirement to obtain three written Quotations according to reason must be reported to Council on a quarterly basis.

6.0 REVIEW OF THE CODE

This Code for Tenders and Contracts will be reviewed at least every four years unless it is necessary to amend prior.

7.0. DEFINITIONS

TERM	DEFINITION
Alternative Tender or Quotation	A Tender or Quotation which meets all of Council requirements but in a manner different to that specified.
Closing Time	The closing time and date for Tenders or Quotations stated in the Conditions of Participation or Conditions of Tendering.
Conditions of Contract	The terms and conditions that a Service Provider will be required to substantially agree to if their Tender or Quotation is accepted.
Contract	A formal agreement entered into between Council and the successful Tenderer for performance of Council requirements
Conditions of Participation / Conditions of Tendering	The terms and conditions under which Council will seek receive and evaluate Tenders and Quotations.
Council	Flinders Council and where context permits, its employees and assigns.
Delegate	The Council Committee or officer authorised to expend funds to the value of Council requirements under the current version of Council's Delegations Register

TERM	DEFINITION
Early Contractor Involvement (ECI)	A collaborative procurement method where construction contractors are engaged during the early design and planning stages rather than after design completion.
Emergency	A sudden, serious and dangerous event, or situation, often characterised as an unforeseen, urgent and often critical circumstance that demands fast action to prevent harm or damage.
Expression of Interest (EOI)	A non-binding, initial, procurement stage, to gauge market capability, filter, and shortlist contractors before issuing a formal request.
Local Businesses and industry	Includes suppliers with a permanent established business location in the Flinders Municipal Area, operating in the northern region of the State with a permanent office or presence in northern Tasmania or based in Tasmania with a permanent business presence in the State mainly employing Tasmanian workers.
Multiple-Use Register	A register of suppliers who meet criteria established by Council in respect of the supply of particular categories of goods and services. Also referred to as Preferred Contractors List.
Open Tender	A public, competitive procurement process where interested suppliers can submit a bid.
Preferred Tenderer	The Tenderer adjudged by Council as best satisfying Council requirements.
Procurement Principles	The procurement principles prescribed under Regulation 28(a) of the Regulations.
Procurement Process	The process whereby Council seeks to engage a Service Provider to provide Council with goods, equipment, services or construction or building works.
Quotation	An offer from a prospective Service Provider in response to an Invitation issued by Council to a selected number of prospective suppliers.
Request for Tender (RFT)	The documents inviting Tenderers to offer to deliver Council's requirements by submitting a Tender in accordance with these Conditions of Tendering.
Request for Quote (RFQ)	The invitation of quotes as is required to procure goods and services of the relevant threshold.
Service Provider	Any contractors, subcontractors, consultants participating, or seeking to participate, in a Procurement Process, and where the context so permits includes a reference to the "Tenderer".
Specification	The documents prepared for the purpose of describing the extent and the manner of the performance of Council's requirements, including preliminary and general requirements, directions, schedules, programs and drawings and other documents included with or referenced in an RFT or Request for Quotation.

TERM	DEFINITION
Standing Contract	A 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.
Tender	An offer from a prospective Service Provider in response to an open and public Invitation to Tender by Council, whereby no limit is placed on the potential number of offers.
Tender Evaluation Panel (TEP)	The assessment panel as established under the Code to assess and select the most suitable bid.



PROCEDURE - CODE FOR TENDERS AND CONTRACTS



1. METHODS OF PROCUREMENT

1.1 REQUEST FOR QUOTATION

When Council procures goods, services or works under its tendering threshold of \$250 000 or seeks Quotations to establish a Standing Contract arrangement through a Panel process Council will request Quotations in line with its procurement thresholds outlined in the procurement thresholds table.

1.2 PROCUREMENT THRESHOLDS

The purchasing thresholds describe when Quotations and Tenders are to be sought. Purchases shall not be split into smaller purchases to avoid the requirements of purchasing thresholds.

Purchasing Estimate	Minimum Documentation Requirement	Minimum Advertising Requirements	Documents Required	Approval
Less than \$5,000	Verbal quotation	Nil	Notation of verbal quotation on Purchase Order	Per approved budget and delegation register
From \$5,000 to \$29,999	2 written quotes (From separate providers)	Nil	Written assessment of quotes + Purchase Order	Per approved budget and delegation register
From \$30,000 to \$119,999	3 Written quotes (From separate providers)	Nil	Written assessment of quotes + Purchase Order	Per approved budget and delegation register
From \$120,000 to \$249,999	Request for Quote (RFQ) process.*	Council Website and external media/tender provider	Quotation Evaluation Panel (QEP) recommendations to GM + Purchase Order + Contract.	General Manager
From \$250,000 to \$499,999	Request for Tender (RFT) process.*	Council Website and external media/tender provider	Tender Evaluation Panel (TEP) recommendations to GM + Purchase Order + Contract.	General Manager or Council Decision
From \$500,000 and above	Request for Tender (RFT) process.*	Council Website and external media/ tender provider	Tender Evaluation Panel (TEP) recommendations to GM and to Council + Purchase Order + Contract.	Council Decision

All procurement thresholds are GST exclusive. Tenders and Quotations will be sought on a GST exclusive basis.

* Thresholds may also include Expression of Interest (EOI) and Early Contractor Involvement (ECI) procurement methods.

There may be occasions where, for a number of reasons, Quotation(s) cannot be obtained / sought or where doing so would have no additional benefit to Council or the market. Therefore, exemptions from the requirement to seek written quotes under the thresholds can be sought from the General Manager if the reason for doing so satisfies one of the grounds outlined in **Section 2.1 of the Policy document – non-application of the quotation process**, or **Section 2.2 of the Policy document – non application of the public tender process**.

1.3 REQUEST FOR QUOTATION OR TENDER

Council may invite Quotations or Tenders in accordance with the thresholds table shown above at 1.2. may provide The following shall be issued as a minimum:

- advertisement in The Examiner newspaper and on the Council, website tenders page.
- details of the goods or services required
- details of the duration of any contract, including any extensions that are specified in the contract
- the conditions of participation to be met by applicants
- the criteria for evaluating Quotations or Tenders
- the method of evaluating Quotations or Tenders against the criteria
- any mandatory specifications and contract conditions
- a reference to Council's **Code for Tenders and Contracts** (this document)
- applicants must lodge the Quotation or Tender in the manner specified in the conditions of Quotation or Tender.

The period within which a Quotation or Tender is to be lodged will be a period ending at least 14 days after the date on which the notice is published. Applicants must make a response in writing, specify the goods or services provided for and lodge the Quotation or Tender within the period specified in the notice.

1.4 MULTIPLE-USE REGISTER (PREFERRED CONTRACTORS/SUPPLIERS LIST)

Council will establish a Multiple-Use Register otherwise referred to as a Preferred Contractors/Suppliers List, which serves to collate a list of suppliers that are determined by Council to satisfy the conditions of participation for the supply of particular categories of goods or services. The General Manager will invite applications from prospective suppliers for inclusion on the register by publishing a notice in The Examiner newspaper every two years, and on Council's website. The General Manager will ensure that applicants are provided with the following in order to make an application:

- details of the categories of goods or services required
- the conditions of participation to be met by applicants
- the criteria for evaluating applications
- the method of evaluating applications against the criteria
- a reference to this Code for Tenders and Contracts.

The relevant Council officer will advise all applicants of the results of their application including the categories for which they are registered and if applicable, the reasons for any rejection.

When Council requires goods or services of an emergency nature or that are under the procurement threshold, this register may be used. Should Council wish to seek a tender for procurement of goods or services, no favourability will be provided to those registered on the Preferred Contractors/Suppliers List.

Council will review any Multiple-Use Register/Preferred Contractors/Suppliers List at least once every two years. Council will allow a prospective applicant to apply for inclusion on the register or list at any time. Applicants/registrants may apply to be removed from Multiple-Use Registers/Preferred Contractors/Suppliers Lists by writing to the General Manager or will be removed if they no longer meet the conditions of contract (i.e. insurance, environmental and/or work health and safety breaches).

1.4A EXPERT AND SPECIALIST SERVICES

Expert / Specialist Services i.e. legal, planning, engineering, financial, human resources, may be engaged with agreed schedules of rates under contract or on an ad-hoc basis as required.

1.5 MULTIPLE-STAGE TENDER

Council may invite Tenders for a contract for the supply of goods or services using a multiple-stage Tender process, which is a process by which suppliers are evaluated through stages against criteria determined by Council. At the first stage of the multiple-stage Tender process, the General Manager will invite expressions of interest by publishing a notice in The Examiner newspaper and the relevant webpage. The General Manager will ensure that applicants are provided with the following in order to make an expression of interest:

- details of the goods or services required
- the conditions of participation to be met by applicants
- the criteria for evaluating expressions of interest
- the method of evaluating expressions of interest against the criteria
- details of any further stages in the Tender process
- a reference to this Code for Tenders and Contracts.

At the final stage in the multiple-stage Tender process, the General Manager will invite all suppliers who met the criteria determined by Council to Tender for the supply of goods or services. The criteria used at each stage of the multiple-stage Tender process will be consistent. If only one supplier meets the criteria determined by Council at the first stage, Council may contract with that supplier after the provision of a Tender for the next stage or a decision of Council may be sought to do so.

1.6 STANDING CONTRACT

Council may establish a Standing Contract through a Quotation or Open Tender process, refer to section 1 (Methods of procurement).4 above, in which a single provider or multiple providers may be contracted for a certain period to provide specified goods or services during that period without the need for a further procurement process.

When purchasing via a standing contract, Council will seek written quotations in line with its procurement thresholds set out in section 1.2 of this document.

There may be occasions where, for a number of reasons, Quotation(s) cannot be obtained/sought from the standing contract providers or where doing so would have no additional benefit to Council or the market.

Therefore, exemptions from the requirement to seek written quotes under the thresholds can be sought from the General Manager if the reason for doing so satisfies one of the grounds outlined in either **Section 2.1 of the Policy document – non-application of the quotation process**, or **Section 2.2 of the Policy document – non application of the public tender process**.

1.7 ADDITIONS TO STANDING CONTRACTS

Council will generally not permit the addition of providers to a standing contract of providers during the term and any further terms of the contractual arrangement. However, additional providers may be able to join a contract during the term and any further terms of the arrangement with approval by the General Manager if the request meets at least one of the criteria and all of the conditions for additions outlined below.

1.8 CRITERIA FOR ADDITIONAL PROVIDERS

At least one of the following criteria for adding providers to an existing standing contract must be satisfied:

- An increase in the volume of goods, services or works under the existing arrangement has occurred that cannot be accommodated by existing members.
- A court order or directive has been made after the original Tender process changing the circumstances of the original contract members.
- A change in legislation, Australian Standard or similar has occurred after the original Tender process changing the circumstances of the original contract members.
- The prospective additional provider's legal entity was not in existence (i.e. registered, constituted, formed or incorporated) at the time the original Tender process was advertised.
- The prospective additional provider's business did not have an operational presence in Tasmania at the time the original Tender process was advertised.
- A corporate reconfiguration or restructure has impacted a provider on an existing Council arrangement.
- To accommodate market innovation not contemplated or available at the time of the original Tender process.
- The contract has insufficient providers to meet Council's needs under the arrangement.

1.9 CONDITIONS FOR ADDITIONAL PROVIDERS

In the event that Council is found to require additional goods or services or requests are forthcoming for inclusion by a service provider, all of the following conditions for adding providers to an existing standing contract must be satisfied:

- A submission to join the arrangement is made by the prospective additional provider by completing the provided Tender forms of the original Tender process for establishment of the arrangement.
- The Tender submission to join the standing contract is assessed against the same evaluation criteria and process as the original Request for Tender for establishment of the arrangement.
- The prospective additional provider meets the same requirements as the original Tenderers when the standing contract was originally established.
- The submission of the prospective additional provider is approved by the General Manager.
- The prospective additional provider substantially agrees to the conditions of contract already executed by existing providers.
- The additional provider's contract expires on the same date as that of the original providers.
- Providers may be removed from an arrangement if they fail to perform and meet key performance indicators or on the ground of insolvency. A decision to remove a provider from a contract will be at the sole discretion of the General Manager.

1.10 USE OF OTHER PROCUREMENT METHODOLOGIES

For project values above \$120,000, Expression of Interest (EOI) and Early Contractor Involvement (ECI) procurement methods may be utilised. The EOI and ECI procurement methods will follow the same process described in the Request for Quotations/ Tender at 1.3 with differing outcomes for each.

- EOI – Scoping exercise that may not culminate in a contract being awarded. This is to be clearly articulated in the advertising process.
- ECI – Seeking early partnership engagement, providing technical/design expertise and culminates in a staged contract process. No work is to commence until a contract is in place.

Regardless of the value, where it is determined that it is cost effective to do so Council may use a State or Commonwealth Government Contract, the LGAT Procurement process or another council contract for the provision of goods, services or works. The use of such Contracts exempts Council from the requirement to tender under Regulation 29 of the Regulations.

1.11 ENGAGING A THIRD PARTY TO MANAGE A PROCUREMENT PROCESS

Council may engage third parties to manage the procurement process for individual projects. The use of a third party as an agent or consultant to advise on, arrange or manage a procurement process does not exempt Council from complying with Council's procurement framework, policy and procedures.

Should Council engage a third party to manage a procurement process, it must be ensured that material is included in the contractual arrangements with the third party that requires the third party to comply with Council's procurement framework, policy and procedures.

2. TENDERING PRACTICES

Consistent Tender practices must be applied to all procurements where a public Tender is required. These Tender practices may, at Council's discretion, be applied to a Quotation process. The purpose of these Tender practices is to ensure all Council Tenders are conducted in a fair and uniform manner. These Tender practices must be applied to all procurements where a public Tender is required.

2.1 ADMINISTRATION OF TENDERS

Council routinely seeks tenders for a range of activities including construction work, maintenance works and consulting works, and the purchase of goods and services. Public tender processes are conducted by Council's officers.

All projects with a value equal to or greater than \$250,000 (excluding GST) must call for a public tender. This value has been set in accordance with the prescribed amount as per *the Act* at the date the Code was adopted by Council. Certain situations are provided for in the non-application of the public tender process, as outlined in Section 2.2 of the Code.

Tenders may, at Council's discretion be called for any project / purchase below the Prescribed Amount, where:

- A formal tender process is required to deal with the complexity, and/or importance of the purchase;
- There is a high probability of risk associated with the purchase; and
- Use of formal Conditions of Contract are advisable or required.

2.2 ETHICAL STANDARDS

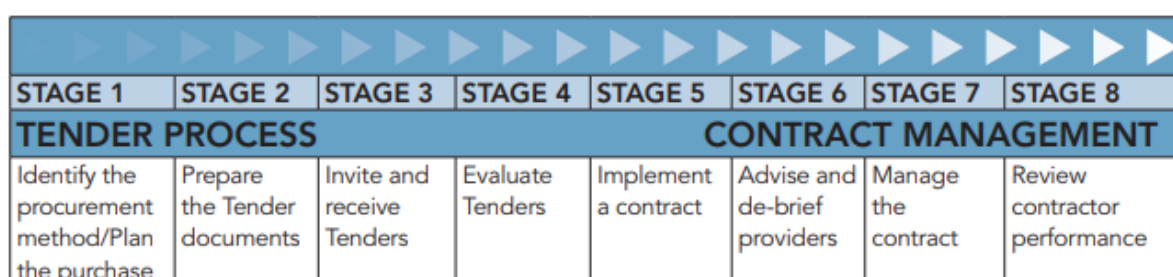
Council's ethical standard is to only support and / or contract companies, institutions and organisations that refuse to support or profit from practices which abuse any of the fundamental human rights. A company that is not abusive is one which:

- has zero tolerance for child abuse, in policy and practice
- does not treat people in a cruel, inhumane or degrading manner
- commits to transparency and independent monitoring to ensure these principles are upheld.

When submitting a Tender or Quotation Service Providers may be requested to provide statements in relation to ethical considerations including child safe provisions.

3. TENDER (RFT)/QUOTATION (RFQ) PROCESS

Council outlines its Tender/Quotation process in a series of stages. Stage 1 to 6 of the diagram below identifies the steps in Council's Tender/Quotation process:



*for this section 3. the word 'Tender' equally applies to the 'Quotation' process.

3.1 STAGE 1 – PLANNING THE PROCUREMENT

The following actions are required prior to preparing a request for tenders (RFT):

- verifying that the appropriate Delegate has approval and/or delegation to undertake the purchase
- establishing the objectives of the purchase and preparing the Specification, which will clearly convey Council's requirements to Service Providers
- identifying the correct purchasing method, including determining if there is an appropriate Contract already in place
- valuing the purchase and, at a minimum, complying with the purchasing thresholds set out under this Code
- confirming sufficient funds are available in Council's budget
- establishing the evaluation committee, their roles and responsibilities
- consideration of conflict of interest for any person involved in the procurement process
- defining any mandatory Conditions of Participation or compliance criteria that a potential provider will be required to meet in order to have their Tender considered
- defining the evaluation criteria (and weightings if applicable) which will be used to evaluate Tenders and select the successful Service Providers(s).

3.1.1 CALCULATING THE VALUE OF A PURCHASE

The value of a contract must be estimated prior to seeking Tenders or Quotations and the contract value must not be underestimated in order to avoid the requirement to seek Tenders or a specified number of Quotations.

The duration of a contract (including standing offers for the supply of goods, services and works, or any combination thereof) must be based on the contract period that best fits Council's business, operational and risk management requirements. A shorter contract period must not be selected in order to avoid the requirement to seek Tenders.

A purchase must not be split into multiple smaller purchases in order to avoid the requirement to seek Tenders or Quotations.

Where relevant, provisional sums, prime cost items, allowances for contingency sums and the like are to be included in the estimated value of a purchase.

3.1.2 USE OF EXPERTS OR PROBITY ADVISORS

Council will engage the services of Probity Advisors and external experts where the nature of the Tender warrants it. For example, where Council is requesting Tenders with complex requirements or high cost or where the contractual arrangement is for extended periods.

3.2 STAGE 2 – PREPARE THE TENDER DOCUMENTS

A unique identifier will be allocated to all Request for Tenders and Requests for Quotations \$120,000.00 and over. Once the contract is awarded the unique identifier will be provided for the contract. The unique identifier must be referred to on all correspondence and other documentation relating to the Tender/Quote and the contract. Appropriate records are to be maintained throughout the duration of a Tender process.

3.2.1 CONDITIONS OF TENDERING

The RFT must include Conditions of Tendering, setting out the terms under which a Tender will be accepted for evaluation, including at a minimum:

- a unique identifier number
- the place for lodgement of Tenders
- lodgement instructions
- the Closing Time and place
- specific lodgement requirements, including the information to be submitted with a Tender
- a single nominated contact officer, to which all enquiries concerning the RFT must be submitted
- the procedure for responding to enquiries and amending or clarifying the RFT documents
- any other matters relating to the RFT process, including details of pre-Tender briefings and site inspections
- mandatory Conditions of Participation or compliance criteria applicable to the RFT
- evaluation criteria and weightings and the method of selecting the Preferred Tenderer
- reference to the Code for Tenders and Contracts.

3.2.2 SPECIFICATION

A complete Specification, which describes the extent of the requirements and particulars of the manner or method of the performance of Council's requirements, must be provided for each RFT.

The Specification must, at a minimum include:

- a description of Council's requirements, which is sufficient to ensure that a Service Provider is not required to undertake an unreasonable amount of design work or other effort in preparing and lodging a Tender
- legislative and mandatory requirements and minimum fitness for purpose and quality standards
- health and safety and environmental management requirements
- The Specification must enable participation by local Service Providers wherever local capacity and capability exists and must not restrict competition to be biased towards a particular brand or Service Provider.

3.2.3 CONDITIONS OF CONTRACT

Service Providers must be provided with or advised of the terms and conditions of the contract that a successful Tenderer will be required to agree to. The RFT will include either:

- the Conditions of Contract or other document setting out the contractual terms defining the obligations and rights of the parties to a contract
- reference to the Australian Standard conditions of contract, or other Conditions of Contract, applicable to the RFT. Any Annexures, schedules or exhibits to the Conditions of Contract must also be issued with the RFT.

3.2.4 TENDER FORMS

At a minimum, Service Providers must be provided with a properly structured Tender form, on which to make their Tender.

3.3 STAGE 3 - INVITING AND RECEIVING TENDERS

3.3.1 INVITING TENDERS

The Invitation to Tender must be in the form of a public advertisement, which at a minimum provides:

- a description of Council's requirements
- the Closing Time
- instructions on how to obtain the Tender documents
- the times and dates for pre-tender meetings (if applicable).

At a minimum, the Invitation to Tender will be placed in the Tenders section of the Wednesday or Saturday edition of The Examiner newspaper and will be posted on Council's website – Tenders page.

3.3.2 TENDER CLOSING

All Tenders will be allocated with a Closing Time, specifying the time and date by which Tenders must be submitted. The Closing Time must be included in the Conditions of Tendering and the Invitation to Tender. Tenderers will be provided with sufficient time between issuing of the Invitation to Tender and the closing date in which to prepare their Tenders.

The period within which a Tender is to be lodged will be a period ending at least 14 days after the date on which the notice is published.

Unless Council's operational needs require otherwise, submission of Tenders will not be required:

- before 3 pm
- on a Monday or any day immediately after a day which is a declared statutory public holiday in Tasmania
- between the dates of 24 December to 2 January (inclusive).

Council may amend the Closing Time for Tenders by issuing a written notice to all parties in receipt of the RFT via email and on the website page.

3.3.3 REQUESTS FOR ADVICE AND INFORMATION

Council reserves the right not to respond to any requests for clarification or additional information, if requested after the closing date.

Information not included in the RFT/RFQ documents and/or clarifications will be provided to all interested parties to maintain equality to all tenderers.

Council will nominate an officer or other representative (the "contact person") to deal with RFT/RFQ enquiries. All enquiries about the RFT/RFQ must be directed to the contact person.

Any requests or queries regarding the RFT/RFQ process after the Closing Date or that are unable to be resolved via the contact officer are to be issued to the General Manager.

3.3.4 AMENDING OR EXTENDING A TENDER

Council reserves the right to amend any of the documents comprising the RFT or provide clarification of any matter relating to the RFT prior to the Closing Time.

If the RFT is amended or clarification of the RFT matter, other than clarification of the RFT process, is required, Council will issue a notice of addendum via its website. Tenderers will be provided with sufficient time to allow for incorporation of the requirements of any addenda issued in their Tender submission.

Council may allow Tenderers, which have already submitted a Tender, to lodge an amendment to their Tender, provided that any such amendment is lodged in accordance with the Conditions of Tendering prior to the Closing Time.

3.3.5 RECEIVING AND LODGEMENT OF TENDERS

Clear instructions on how to lodge a Tender will be provided in the Conditions of Tendering.

A Tenderer must comply with the lodgement instructions given in the Conditions of Tendering. Council may reject any Tender which is not lodged in accordance with the lodgement instructions, without consideration.

3.3.6 LATE TENDERS

Any Tender received after the Closing Time for Tenders will not be considered unless Council is of the opinion, and Council's decision shall be final, binding and not open to dispute, that:

- the cause of the lateness was beyond the Tenderer's reasonable control;
- consideration of the late Tender would not provide an unfair advantage to the Tenderer submitting the late Tender; and
- consideration of the late Tender would not compromise the Tender process

3.3.7 OPENING OF TENDERS

Council will hold tenders securely and digitally. Tender submissions will not be opened until the time set for the closing of Tenders has elapsed.

The opening of Tenders will not be public.

Tender submissions will be opened in the presence of at least two Council officers together with the external Probity Advisor if applicable, and the Tender submissions received will be clearly identified and recorded upon opening.

If a Tenderer is provided with the opportunity to correct unintentional errors of form between the opening of submissions and nomination of a Preferred Tenderer, the same opportunity to correct unintentional errors will be provided to all other Tenderers.

A Tenderer may withdraw its Tender at any time prior to acceptance of the Tender, by providing Council with written notification.

A Tender must remain valid for the period of time required by the Conditions of Tendering.

3.3.8 ALTERNATIVE TENDERS

Council may consider any Tender which meets Council's requirements in an alternative and practical manner provided that it meets the totality of those requirements (i.e. Council may consider an "Alternative Tender").

An alternative tender will only be considered in conjunction with a conforming tender.

Alternative Tenders may relate to the functional, performance and technical aspects of the requirements or to opportunities for more advantageous commercial arrangements. Council may either consider Alternative Tenders on their merits or reject Alternative Tenders without consideration at its absolute discretion.

3.3.9 CONFIDENTIALITY AND COMMERCIAL-IN-CONFIDENCE

Any of the documents, information or other materials provided to Tenderers by, or on behalf of, Council in connection to an RFT, remains the property of Council and may only be used by the Tenderer to the extent required to prepare its Tender.

A Tenderer or other person receiving the RFT must not publish, disclose or copy any of its content, except as necessary to prepare its Tender. The Tenderer must keep confidential all information provided by or on behalf of Council as part of, or in connection to, the Request for Tenders.

Council may publish and publicly disclose (in annual and other reports, on the internet or otherwise) a description of the Contract arising out of awarding of the Tender, the successful Tenderer's name and the value of the successful Tender.

Council may reproduce and disclose or distribute and save or store all or part of a Tender as required to enable the Tender evaluation process and as necessary to meet its legal, governmental and other obligations.

Council may disclose the name of the successful Tenderer to unsuccessful Tenderers.

Further information regarding confidentiality in the Tender evaluation process is outlined in Section 4 of this document. All Tenders become the property of Council immediately upon submission.

3.4 STAGE 4 – TENDER EVALUATION

Unless the Conditions of Tendering expressly state an alternative method, Tender evaluation will be carried out in accordance with the principles and practices set out in this Code.

3.4.1 CONFORMING AND NON-CONFORMING TENDERS

A Tender will initially be assessed for conformance. A conforming Tender will be taken to mean a Tender which:

- is lodged by the Closing Time and in compliance with the requirements of the Conditions of Tendering
- meets the mandatory Conditions of Participation.

Council will consider any conforming Tender on its merits. Council may reject, as a nonconforming Tender, any Tender which:

- is not submitted in conformance with the Conditions of Tendering
- is incomplete or which contains insufficient information to allow Council to carry out a valid evaluation in accordance with the procedure for evaluating Tenders set out in this Code.

Council reserves the right to exclude any Tender from evaluation which, in Council's judgement, is excessively low or high in price so as to have a detrimental effect on the relativity of other Tenders.

3.4.2 TENDER EVALUATION PANEL

A Tender Evaluation Panel (TEP) will be established for each Tender process. The TEP will consist of at least three members plus an independent advisor and/or probity advisor if required (for high value or complex contracts).

In order to ensure consistency a common structure for all TEPs within Council is required. Therefore, the TEP will always include the following:

- chairperson
- at least two staff members additional to the chairperson
- an independent probity advisor, if required

The chairperson should be a Council officer with suitable seniority, normally the TEP would be chaired by a relevant Manager at a minimum and at least one member should be proficient regarding the technical/subject matter.

A probity advisor may be required for high value or complex Tenders where independent probity advice and an independent probity contact for Tenderers would benefit the procurement process and reduce procurement risk.

3.4.3 CONFIDENTIALITY

Tender evaluations should be strictly confidential. All contact with the suppliers must be confirmed in writing through the nominated Contact Officer advising the TEP. Members of the TEP will not discuss with any other person outside the TEP issues regarding the evaluation. The Chair of the TEP may obtain advice from specialists to assist in the Tender evaluation process.

3.4.4 METHOD

Tenders will be evaluated with the aim of determining the Tender submission which offers the best value for money outcomes to Council. When assessing value for money, Council may:

- in addition to price, take into account any non-price criteria that it considers relevant to the successful performance of Council requirements and achievement of Council's desired commercial and other outcomes, including but not necessarily limited to Council's Procurement Principles
- apply a weighting to the price and non-price criteria.

The evaluation method and evaluation criteria and weightings must be determined before finalising the RFT and must be disclosed to Tenderers in the Conditions of Tendering.

Selection and manner of application of the evaluation criteria and weightings will be at the sole discretion of Council. Council will not be liable to any Tenderer for the application, or non-application, of any evaluation criterion or weighting. Evaluation criteria and weightings will apply equally to all Tenderers.

3.4.5 CLARIFICATIONS

During the evaluation process, Council may request additional information from any Tenderer in order to clarify matters in doubt or not made clear by the Tender submission. However, a Tenderer will not be provided with the opportunity to revise or amend its Tender price or submit additional material information in order to make a non-conforming Tender into a conforming Tender.

3.4.6 TENDER NEGOTIATIONS

During the evaluation process, Council reserves the right to negotiate with a Tenderer or Tenderers in order to:

- assess a Tenderer's understanding of Council's requirements, test any assumptions made by a Tenderer in determining their Tender prices(s) and rectify any false assumptions
- obtain clarification of matters in relation to the Tenderer's capability to fulfil Council's requirements
- enhance the commercial benefit to Council by achieving cost reductions or service improvements with the preferred tenderer
- finalise the commercial terms required to form a contract.

Council will not enter into negotiations which result in substantial modification to Council's requirements, or which would lead to a non-conforming Tender becoming a conforming Tender.

The outcomes of Tender negotiations will be reflected in the final contract documentation.

In the course of negotiations with a Tenderer, Council will not disclose the details of any other Tender submissions.

3.5. STAGE 5 – ESTABLISH A CONTRACT

The authority to award Tenders and Quotations, and enter into contracts, will be in accordance with the approved Delegate under the financial delegations set out in Council's Delegation Register, the relevant Council decision or approved budget.

3.5.1 TENDER REJECTION AND ACCEPTANCE

Council is not obliged to accept the lowest priced Tender or any Tender.

Council may reject all Tenders.

Council may accept a conforming or Alternative Tender.

If Council rejects all Tenders, it will advise all Tenderers accordingly in writing.

Council will advise all Tenderers of the outcome of the Tender process in writing. Unsuccessful Tenderers may be provided with the name of the successful Tenderer.

The requirements for acceptance of Tender and contract formation will be specified in the RFT.

3.5.2 CONTRACT EXTENSION

Council may extend a contract entered into by Tender under the following conditions:

- if the contract conditions provide for an extension of contract or if required,
- by a decision of the Council made by absolute majority.

Council will be mindful when such extension of contract is granted that the principle of open and effective competition is adhered to.

3.5.3 CONTRACT VARIATION

A variation to a contract could include, but not be limited to, a change in scope and type of Council's requirements, quality standard, service level, delivery times, timeframes, personnel and price.

All contract variations must be approved by the appropriate delegate in line with their financial delegation and generally:

- must not exceed budget unless a budget variation request has been approved; and
- must not materially alter the Specification for the goods, service or works initially tendered for;
- must be approved by the General Manager if any contract variation exceeds the Project Managers financial delegation;
- in the case of variations exceeding \$100,000 in value, Council approval will be sought.
- the General Manager may seek Council approval for a variation below these thresholds as deemed appropriate to comply with best practice principles.

3.6. STAGE 6 – ADVISING AND DEBRIEFING PROVIDERS

The purpose of the debriefing session is to help unsuccessful tenderers improve their ability to successfully bid for future Council requirements.

The debriefing process is not to be used as a means of contesting the outcomes of a procurement process, but instead, promote continual improvement of submissions.

Council will provide a debriefing interview to any unsuccessful bidder who requests one.

Briefings will include:

- how their offer performed with respect to the evaluation criteria; and
- strengths as well as weaknesses of their offer.

Briefings will not include:

- comparisons between the unsuccessful tenderer's offer and the winning or any other offer; or
- the debriefing interview being used to justify the selection of the successful tenderer.

Council's debriefing team will include at least one member from the TEP. Council will document the proceedings at each debriefing interview including:

- who attended (from the agency and from the business concerned)
- the information provided to the unsuccessful tenderer
- any issues arising
- the details of any information that was requested, but not disclosed due to commercial in confidence considerations; and
- any likely future complaints, and recommendations for further action.

Where a multiple stage purchasing process is used (for example where EOIs are used to short-list tenderers), tenderers not short-listed may be offered a debriefing interview, in a similar way to unsuccessful tenderers.

3.7 STAGE 7 – MANAGING THE CONTRACT

Good communication protocols must be set up with the contractor. Ordinarily one project manager shall be assigned from Council to liaise with one site manager with key personnel, their roles and redundancy included in the Contract Management Plan. A minimum of weekly meetings should be held, to discuss the works, the provisions of the contract, timeframes and budget. Identifying issues, with the contractor, as early as possible will save further issues and delays as the project progresses.

3.8 STAGE 8 – REVIEWING CONTRACTOR PERFORMANCE

Prior to final payment and the issuance of any certificates of completion, a review of the contractor's performance will be undertaken to ensure both parties are satisfied that the project has been delivered successfully. Any concerns or grievances should be raised at this stage, rather than at a later date when neither party is in a position to respond or negotiate. Once all reviews have been completed, each party must confirm their satisfaction with the project outcomes.

4. COMPLIANCE AND REVIEW

4.1 REVIEW OF TENDER PROCESS

Following completion of the tender evaluation process a report is prepared for the General Manager to review the tender process and accept or reject the recommendation from the TEP.

Periodic reviews of procurement and tender process controls may be conducted by Council's internal auditors.

4.2 PROCUREMENT COMPLAINTS

A complaint about procurement can be communicated to Council via the process for making a complaint contained in Council's Customer Service Charter, which may be obtained via Council's website.

The contact officer should first attempt to find resolution to the procurement complaint in consultation with the Chairperson of the TEP. If the complaint can't be resolved the complaint should be referred to the General Manager

4.3. BREACH OF THE CODE

Council will comply with its Code and its legislative obligations.

If any employee of Council, or a body controlled by Council, breaches this Code, Council may take disciplinary action if, in its absolute discretion, it considers it necessary to do so.

If a Service Provider commits a breach of this Code, Council may, in its absolute discretion, take action against that Service Provider. Action may include, but not be limited to:

- giving a warning to the Service Provider;
- reporting of the breach to a statutory, professional or other relevant body; and
- termination or suspension of the Service Provider's engagement.