

	<h1>District Council of Cleve</h1>	<b>Version No:</b>	8
		<b>Issued:</b>	July 2023
		<b>Next Review:</b>	June 2025

Policy Name:           **7.1 - Procurement**

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## 1. INTRODUCTION

- 1.1 In compliance with Section 49 of the Local Government Act 1999 (**Act**), Council should refer to this policy (**Policy**) when acquiring goods and services.
- 1.2 Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
  - 1.2.1 the contracting out of services; and
  - 1.2.2 competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
  - 1.2.3 the use of local goods and services.
- 1.3 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
  - 1.3.1 obtaining value in the expenditure of public money; and
  - 1.3.2 providing for ethical and fair treatment of participants; and
  - 1.3.3 ensuring probity, accountability and transparency in all operations.
- 1.4 This Policy seeks to:
  - 1.4.1 define the methods by which Council can acquire goods and services;
  - 1.4.2 demonstrate accountability and responsibility of Council to ratepayers;
  - 1.4.3 be fair and equitable to all parties involved;
  - 1.4.4 enable all processes to be monitored and recorded; and
  - 1.4.5 ensure that the best possible outcome is achieved for the Council.
- 1.5 However, this Policy does not cover:
  - 1.5.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
  - 1.5.2 the disposal of land and other assets owned by the Council; or
  - 1.5.3 the purchase of land by the Council.

## 2. POLICY OBJECTIVE

Council aims to achieve advantageous procurement outcomes by:

- 2.1 enhancing value for money through fair, competitive, non-discriminatory procurement;
- 2.2 promoting the use of resources in an efficient, effective and ethical manner;
- 2.3 making decisions with probity, accountability and transparency;

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- 2.4 advancing and/or working within Council's economic, social and environmental policies;
- 2.5 providing reasonable opportunity for competitive local businesses to supply to Council;
- 2.6 appropriately managing risk; and
- 2.7 ensuring compliance with all relevant legislation.

### 3. PROCUREMENT PRINCIPLES

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

- 3.1 *Encouragement of Open and Effective Competition*
- 3.2 *Obtaining Value for Money*

This is not restricted to price alone.

An assessment of value for money must include, where possible, consideration of the following:

- 3.2.1 the contribution to Council's long term financial plan and strategic direction;
  - 3.2.2 any relevant direct and indirect benefits to Council, both tangible and intangible;
  - 3.2.3 efficiency and effectiveness of the proposed procurement activity;
  - 3.2.4 the performance history, and quality, scope of services and support of each prospective supplier;
  - 3.2.5 fitness for purpose of the proposed goods or service;
  - 3.2.6 whole of life costs;
  - 3.2.7 Council's internal administration costs;
  - 3.2.8 technical compliance issues;
  - 3.2.9 risk exposure; and
  - 3.2.10 the value of any associated environmental benefits.
- 3.3 *Probity, Ethical Behaviour and Fair Dealing*

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

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### 3.4 *Accountability, Transparency and Reporting*

Where purchase of an item of plant is being considered, compliance with Council's Plant Procedure, Paragraph 4.2, "Introduction of Plant to the Workplace", must be ensured.

### 3.5 *Ensuring Compliance with all Relevant Legislation*

### 3.6 *Encouragement of the Development of Competitive Local Business and Industry*

Where the evaluation criteria are comparable, Council may consider the following:

- 3.6.1 the creation of local employment opportunities;
- 3.6.2 increased availability of local servicing support;
- 3.6.3 increased convenience with communications with the supplier for contract management;
- 3.6.4 economic growth within the local area;
- 3.6.5 benefit to Council of associated local commercial transaction; and/or
- 3.6.6 the short and long term impact of the procurement on local business.

### 3.7 *Environmental Protection*

Council will seek to:

- 3.7.1 adopt purchasing practices which conserve natural resources;
- 3.7.2 align the Council's procurement activities with principles of ecological sustainability;
- 3.7.3 purchase recycled and environmentally preferred products where possible;
- 3.7.4 integrate relevant principles of waste minimisation and energy;
- 3.7.5 foster the development of products and services which have a low environmental impact;
- 3.7.6 provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

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### 3.8 *Work Health and Safety*

Council will only engage suppliers and/or contractors who are able to maintain a level of WHS that is acceptable in accordance with Council's WHS Policies and Procedures and any additional requirements specified in terms and conditions of contractual arrangements.

### 3.9 *Pre Purchase Risk Assessment*

Formal pre purchase risk assessments must be undertaken for purchase of all plant and vehicles in accordance with council's Plant Procedure. Consideration of risk must be undertaken pre-purchase for all other purchases. The level of the pre purchase risk assessment shall be determined by the value of the purchase, type of purchase and perceived level of risk.

### 3.10 *WHS Contractor Management*

Council has an obligation to ensure that Contractors engaged by council have an understanding and a commitment to WHS as competent providers of the goods and/or services they are contracted to provide. Council officers must ensure when engaging contractors, they administer Council's WHS Contractor Management Policy and Procedure and, in particular, selection, monitoring and induction of Contractors.

## 4. **PROCUREMENT METHODS**

Generally, open and fair competition is best achieved by undertaking a tender process so that all interested parties have an opportunity to bid. However, there may be procurements in which a tender process will not necessarily deliver the most advantageous outcome for the Council - in such instances, other market approaches may be more appropriate.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods:

### 4.1 *Direct Purchasing*

This is where Council purchases from a single source, without first obtaining competing bids.

This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.

### 4.2 *Quotations (Informal)*

This is where Council obtains quotations from prospective suppliers.

Generally, a minimum of two (2) quotations are sought. Where possible, the Council must insist on written quotes.

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If a written quote cannot be obtained, the Council **must** keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.

This method may be suitable for low value, low risk goods and services.

#### 4.3 *Purchase Orders*

This is where Council is purchasing routine, low value and low risk goods and services.

Generally, Purchase Orders have limited terms and conditions and should not be used for non-routine, high value and high risk goods and services

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

This is where Council obtains written quotations from prospective suppliers.

Generally, a minimum of three (3) written quotations are sought.

This method may be suitable for simple, largely price-based purchases.

A "Short Form Request for Quotation" can be used for purchases with minimal specifications.

A "Long Form Request for Quotation" can be used for purchases with detailed specifications.

#### 4.5 *Requests for Expressions of Interest (REOI)*

This is where Council issues an open invitation for a proposed good and/or service.

This method may be used where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to then invite to participate in a tender process.

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

This is where the Council issues a tender for a proposed goods and/or service.

Council may issue a "Select" Request for Tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers.

Otherwise, Council may issue an "Open" Request for Tender.

#### 4.7 *Panel Contracts*

This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

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- 4.7.1 a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
- 4.7.2 the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

Once a panel has been established, the Council may purchase the particular goods and/or services through such panel arrangements.

#### 4.8 Strategic Alliances

This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations including:

- 4.8.1 LGA Procurement;
- 4.8.2 a purchasing group of which the Council is a member;
- 4.8.3 G6 Procurement Group;
- 4.8.4 Procurement Australia; and
- 4.8.5 Statement Government contracts.

### 5. CONSIDERATIONS FOR THE COUNCIL

The appropriate method of procurement will be determined by reference to a number of factors, including:

#### 5.1 Value of the Purchase

<b>Value of Purchase (\$) (Exc GST)</b>	<b>Possible Method of Procurement</b>	<b>Delegate for Approval (Ordering, Purchasing/ Payment)</b>
0 - \$5,000	Direct Purchase One (1) verbal quote required <u>Conditions:</u> Purchase Order or Credit Card	In accordance with authority delegated by the CEO

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\$5,000.01 - \$25,000	Direct Purchase One (1) written quote required <u>Conditions:</u> Purchase Order	In accordance with authority delegated by the CEO
\$25,000.01 - \$75,000	RFQ, RFT, REOI, Panel Contracts, Strategic Alliance <u>Conditions:</u> Two (2) written quotations required Purchase Order	In accordance with authority delegated by the CEO
\$75,000.01 - \$500,000	RFT, Panel Contracts, Strategic Alliance <u>Conditions:</u> Tender contract documents and process required. Advertise	In accordance with authority delegated by the CEO
Greater than \$500,000 must be approved by Council, unless Council specifically delegates otherwise	RFT, Panel Contracts, Strategic Alliances <u>Conditions:</u> Tender contract documents and process required. Advertise	Council

The value of the purchase will be calculated as follows:

- single one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
- multiple purchases – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- ongoing purchases over a period of time – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).

5.2 cost of an open market approach versus the value of the acquisition and the potential benefits;

5.3 the particular circumstances of the procurement activity;

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- 5.4 the objectives of the procurement;
- 5.5 the size of the market and the number of competent suppliers;
- 5.6 the Council's leverage in the marketplace;
- 5.7 time constraints; and
- 5.8 a global 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.

## 6. RECORDS

Council must keep appropriate records detailing the procurement and decision making process for all procurement.

It is the responsibility of all employees involved in purchasing to ensure that records are kept in accordance with Council's Records Management Policy and requirements of the Local Government Act 1999 and Regulations.

The 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 written quotes obtained by Council must be captured in Council's electronic records management system and hard copies attached to the respective tax invoice.

## 7. EXEMPTIONS FROM THIS POLICY

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

In certain circumstances, the Chief Executive Officer may, waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Chief Executive Officer must record its reasons in writing for waiving application of this Policy.

Some examples of when it may be appropriate for the Chief Executive Officer to waive application of this Policy are:

- (a) significant public risk if procurement is delayed by process requirements (ie, emergency situations threatening life and property); or
- (b) ensuring the security of Council's assets; or
- (c) the supply market is known and council can ensure that all potential suppliers are invited to participate; or



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- (d) timing constraints whereby open call is not feasible (ie, unanticipated Council or Government policy decisions); or
- (e) Council purchases goods at an auction; or
- (f) Council purchases second hand goods; or
- (g) Officers may deem that there is only one (1) supplier to provide or supply goods and/or services to Council. Officers must demonstrate and document their market research and process in order to ascertain sole supplier status; or
- (h) a neighbouring, regionally based council is able to provide shared services that meet Council's needs; or
- (i) the contract is made with, or under an arrangement with or made by:
  - i) the State, a government entity, a local government owned corporation, another local government, Local Government Corporate Services, Strategic Purchasing (MAPS Group),
  - ii) another Australian Government, an entity of another Australian Government or a local government of another State or Territory.

When assessing the most effective method of obtaining goods and/or services, Council officers should consider the administrative costs to Council of seeking tenders or quotation independently, and the reduction of these costs which can be achieved by use of approved alternative arrangements.

A request to waiver of competitive process should not be viewed as a mechanism to speed processes in a way that will not stand up to rigorous scrutiny nor as a mechanism to obviate the need for careful forward planning. The granting of waiver of competitive process must be appropriately documented and approved in accordance with Council Policy. The request for waiver should only be approved by the Chief Executive Officer.

Where a funding Agreement specifies that Council must follow a prescribed tendering process which differs from the process outlined in this Procurement Policy, the project funded under that Agreement is exempted from the Policy.

Where a purchase is made in the event of any emergency the expenditure must be within the officer's delegated authority, 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.

Schedule 1 provides a list of nominated goods / works / services which are exempt from a purchase order being issued for payment.

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## 8. DELEGATIONS

Council delegates to the Chief Executive Officer the authorisation to approve expenditure and enter into contracts valued at less than \$500,000 (exclusive of GST). The Chief Executive Officer may sub delegate expenditure authorisations commensurable with officer roles and responsibilities.

Council delegates to the Chief Executive Officer the authorisation to approve, amend and review any procedures that shall be consistent with this Policy.

## 9. PRUDENTIAL REQUIREMENTS

Consideration should be given to Council's Prudential Management Policy when considering Council projects.

## 10. PUBLIC CONSULTATION

Where a purchase requires public consultation as part of the process, then such consultation must be in accordance with Council's Public Consultation Policy.

## 11. AVAILABILITY OF THE POLICY

This Policy will be available for inspection at the Council's offices during ordinary business hours and via the Council's website <http://www.cleve.sa.gov.au>. Electronic versions are the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

## 12. ADOPTION OF POLICY

This Policy was adopted by the Council at its Ordinary Council meeting on 8 February 2022.



David Penfold  
Chief Executive Officer

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### 13. DOCUMENT REVIEW

The Council may review this policy from time to time, however it is anticipated that a review of the policy will be undertaken every three (3) years. Council has the right to review this policy at any time, if considered desirable.

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## SCHEDULE 1 - Nominated goods / works / services which are exempt from requiring a purchase order to be issued for payment

**Please note:** The items on this schedule may change from time to time based on Council's operational requirements. This information is provided as supplementary information to the Procurement Policy only and does not require endorsement by Council or its committees as it is amended.

Purchases for the following goods, services, fees or charges:

- Minor purchases from local suppliers where it is considered not practical to issue an order and conform with the approved financial limits of authority;
- Resource sharing contractor arrangements;
- Statutory Government charges or levies;
- Vehicle registration;
- Insurance charges;
- Postal services;
- Legal services;
- Subscriptions and memberships;
- Utilities (e.g. SA Water, Telstra, Optus, Origin, AGL, Elgas);
- License and membership fees;
- Banking services;
- Courier services and Freight;
- Dial Before You Dig services;
- Training, conferences, travel, meals, accommodation;
- Food and beverages;
- Employee reimbursements;
- Payments for elected and committee members, i.e. DAP, Audit Committee;
- Emergency purchases, or situations threatening life or property. Where a purchase is made under this section, the following will apply:
  - 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 practical (i.e. purchase order generated, quotations sought for the remainder of the goods, services or works other than that required for emergency response);
- Planning and building consultant fees.