

Policy No. 5



CONTRACTS & TENDERING POLICY

Approved on: 21 April 2003
Review on: 30 May 2009

Responsible Department/Officer	Administrator
Date of Adoption	21 April 2003
Review Date	30 May 2009
Related Procedures/Policies	
Reference to Strategic Plan	

1. INTRODUCTION

Under the Section 49 of the Local Government Act 1999 Council is required to adopt policies on contracts and tenders. This policy outlines the relevant matters to be considered in Council conducting its operations and will apply to the provision of all services, the purchase of goods and services and the disposal of land and other assets.

2. POLICY FRAMEWORK

Roxby Downs Council ("the Council") is committed to ensuring a fair, transparent and accountable process, in the provision of services, purchasing of goods and services and in the disposal of land and other assets. Council aims to ensure that its methods of service provision, (including the carrying out of works), purchasing goods and sale and disposal of land and or other assets are cost effective, meet the needs of the community and represent best value for money.

Best value is the essential test against which purchasing and contracts activities will be assessed. Best value is not an attribute or criteria in itself but a basis for comparing alternative solutions.

Council's Competitive Tendering, Contracting Out and Sale and Disposal of Land and Other Assets Policy addresses the key elements of the conduct of Council affairs in these areas and the principles that will guide its decision making processes. It should be noted that Council has never employed traditional day labour staff for the provision of external works. These have always been carried out by contract.

3. SERVICE PROVISION

The Principles

In fulfilling Council's service provision role, the following principles will apply:

- Consistency with and relevance to Council's Strategic Management Plans.
- Determination of service delivery approaches on the basis of best short and long term value (i.e. quality and cost standards will be met, the service will be responsive to the needs of the community and will be accessible to those for whom it is intended).
- Adoption of efficiency, effectiveness, accountability and transparency measures.
- Consideration of the impact of service delivery approaches on local businesses.
- The appropriateness and necessity for Council to retain control over the way in which services are provided and its response to emergency situations.
- Consideration of local knowledge and experience.
- Compliance with statutory obligations and the National Competition Policy.
- Opportunities for creating or maintaining economic development and growth in the area and participation with other spheres of government, community groups and the private sector in service delivery.
- Where a suitable local area supplier is not available then preference may be given to Adelaide based South Australian based and then Australia based suppliers of goods and services, in that order.
- Other relevant factors.

Service Provision Options

Council has identified the following options for the provision of services:

- Competitive tendering (where applicable) by exposing the provision of Council services to competition through a formal tendering process.
- Contracting out or outsourcing - to an external provider.
- Contestability - involving staff in identifying and adopting productivity improvements in service delivery designed to meet service standards determined through performance measurement, benchmarking and market testing.
- Collaborative ventures - where council joins with other organisations, Local Government authorities, State Government authority or private sector company to jointly deliver a service.
- Commercial activities – projects which may involve the establishment of joint ventures, trusts, or partnerships.

In identifying the circumstances in which to apply the above options Council will consider:

- Council's Strategic Management Plan goals and objectives.
- Council's Enterprise Agreement.
- Maintenance of control of specific services by Council.
- The risks to Council in adopting the various options.
- The number of competitors in the market place.
- The Council's current service delivery arrangements.
- Council's existing resources.
- Council's desire support local businesses.
- Council's desire to enter into commercial activities or projects.
- Council's desire to promote local community economic development initiatives.

4. PURCHASE OF GOODS & SERVICES

Principles

In fulfilling Council's purchasing role, the following principles will apply:

- Consistency with and relevance to Council's Strategic Management Plan.
- Transparency and accountability in purchasing procedures and practices to ensure that Council purchases at the best price and that all potential suppliers are given equal opportunity to provide the required goods and services.
- Opportunities to enhance local economic development and growth.
- Compliance with statutory and other obligations.
- Commercial confidentiality.
- Other relevant factors.

Purchasing Options

Generally, Council will purchase goods through adoption of the following approaches:

- Direct purchase - where there is only a single supplier or the particular circumstances involvement of only one potential supplier.
- Quotation – seeking quotations from two or more suppliers.
- Selected Tender - seeking tenders from a limited number of suppliers on the basis of, for example, location, previous performance, the result of an Expression of Interest process.
- Open Tender – seeking tenders from the market at large through an open invitation process e.g. advertisement.

In identifying the circumstances in which to apply these options, Council will consider a number of issues, e.g.

- The number of known suppliers of the goods or services.
- The existence of local suppliers of the goods or services and the impact on the local economy if the goods or services were purchased from outside the Council area.
- The total estimated value of the purchase.
- Organisational capacity and attitude to elected Council/staff roles and responsibilities in purchasing.
- Delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of supply.
- Previous experience with suppliers.
- Compliance with statutory obligations.

5. SALE AND DISPOSAL OF LAND AND OTHER ASSETS

Principles

For the sale and disposal of land and other assets, the following principles will apply regarding decisions of Council:

- Consistency with and relevance to Council's Strategic Management Plan.
- Transparency and accountability in sale and disposal procedures and practices to ensure that Council obtains the best price and that all potential purchasers are given equal opportunity to purchase the land or assets.
- Opportunities to enhance local economic development and growth.
- Compliance with statutory and other obligations.
- Commercial confidentiality.
- Other relevant factors.

Sale and Disposal Options

Generally, Council will sell or dispose of land and other assets through adoption of the following practices:

- Direct sale - advertisement for sale and the nature of the advertisement i.e. public notice, local paper etc.
- Quotation - seeking quotations for the sale of land and other assets.
- Selected Tender - seeking tenders from a selected group of persons/companies etc.
- Open Tender - openly seeking, through advertisement, tenders, or buyers for Council, land and other assets.

In identifying the circumstances in which to apply these options, Council will consider a number of issues, e.g.

- The number of known potential purchasers of the land or assets.
- The original intention for the use of the land or asset when purchased, where relevant.
- The current and possible preferred future use of the land or assets.
- The existence of local purchasers of the land or asset.
- The opportunity to promote local economic growth and development.
- The total estimated value of the sale.
- Delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of the sale.
- Compliance with statutory and other obligations.

6. DECISION MAKING PROCESS

Council recognises that the community, local businesses and contractors will from time to time have an interest in the manner and approach adopted by Council when determining service delivery, purchasing and disposing of land and other assets.

Council or its officers with delegated authority will, when making decisions under this Policy, act in accordance with the Council's budget, relevant policies, plans, industrial awards, agreements, resolutions etc.

The Administrator may sub-delegate matters related to this policy to staff or other persons employed or engaged by Council or may also delegate matters covered by this policy to its Committees or Subsidiaries.

Contracts and Tenders

When undertaking contract and tender activities Council's decision making process will reflect the following:

- whether tendering will assist Council to achieve its strategic objectives and strategies.
- customers of the service will not be disadvantaged.
- responsibility of Council for the provision of the service will not be adversely affected.
- it is practical and possible to specify the quality and quantity of the service required to be delivered.
- it is deemed appropriate for Council to continue to ensure the service is provided.
- following the completion of a market analysis, there is scope for the provision of the service by an external provider and there is potential to gain savings not currently available to Council.
- gains (financial and non-financial) are greater than what could be achieved through direct provision of the service by Council.
- the relationship between the service to be contracted or tendered to other related services in the Council.

Where Council determines it will use a contract or tender arrangement under this Policy, it will decide whether:

- to adopt a selective or open tender process.
- prepare appropriate documentation to inform potential providers of the service of the necessary information to formulate their tender and the manner in which to submit an offer.
- form a selection panel to consider offers made for the provision of the service.
- the selection panel will make a recommendation to the Administrator.
- manage any complaints arising from the decisions taken by Council consistent with its Internal Review of Decisions Procedures required under the Act.
- Council will make available procedures relevant to specific tendering activities.

7. DOCUMENTATION

To assist in demonstrating that its service provision, purchasing and disposal processes are cost effective, fair, transparent and accountable, and meet community needs, Council will document the reasons for entering into contracts other than those resulting from a tender process.

8. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed and evaluated annually within Council's strategic management planning framework.

The Policy will not be altered or substituted so as to affect a process already commenced.

9. AVAILABILITY OF THE POLICY

The Policy is available for inspection (without charge) at Council's Principal Office at Richardson Place Roxby Downs where any person, body or organisation requests to receive a copy of this Policy, it will be provided within a reasonable period, upon prepayment of a stipulated copying fee.

This Policy is available on the Council's website.

Bill Boehm
Administrator

10. Operational Checklist

4	Action or Decision Required	Issues to Consider
	<p>The Act requires Council to have policies on:</p> <ul style="list-style-type: none"> • competitive tendering • contracting • sale and disposal of land and other assets. <p>Council will need to determine whether it desires one policy or several policies.</p>	<p>Assess whether Council has an already endorsed policy/ies that could be reviewed and/or updated against requirements in the Act.</p> <p>Relationships required or usefully provided between each policy will be important considerations e.g. sale of land relates to consultation requirements under community land provisions in the Act.</p> <p>It may be useful to consider a series of principles to underpin Councils policy/ies in these areas.</p> <p>Council may be constrained by an enterprise agreement disallowing competitive tendering, for example, for a period of time – this may be satisfactory or unsatisfactory to Council. These agreements are legal documents and Council must comply with them. However, it is not inappropriate to flag Council's intention to consider other options for service delivery at some time in the future.</p>
	<p>The Act requires Council's policy/ies to address:</p> <ul style="list-style-type: none"> • the circumstances in which it will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or disposal of land and other assets; and • provide a fair and transparent process for calling of tenders and entering into contracts in those circumstances; and • provide for the recording of reasons for entering into contracts other than those resulting from a tender process. 	<p>Council will need to consider circumstances that may influence its approach to the matters covered by the policy. It is suggested that the circumstances be broad enough to cater for unforeseen instances whilst still providing transparency to the reader.</p> <p>In considering the process for calling for tenders and entering into contracts it is suggested that sufficient scope be provided to enable flexibility in decisions taken, subject to the service, sale or disposal of land or other asset activity. Factors such as advertisement of tender, accessibility to documentation to prepare an offer, receipt and consideration of the offer and final decision making processes by Council are important and necessary aspects to cover in the policy. Again, flexibility needs to be balanced by transparency in approaches adopted.</p> <p>It may be beneficial to have procedural documents available as an adjunct to the policy.</p>
		<p>Issues of delegated authority need to be addressed so as not to constrain Council in the process of awarding contracts. Accountability measures are consistency with strategic management plans, budgets, other relevant policies or statutory requirements etc.</p> <p>The recording of reasons for entering into contracts other than by tender is an important transparency issue for Council and will need careful consideration.</p>

4	Action or Decision Required	Issues to Consider
	The Act enables Council to alter or substitute a new policy at any time (but not as to affect any process that has already commenced).	It is recommended that the CEO keep the policy under annual review so as to assess the degree to which it provides appropriate transparency, flexibility etc.
	The Act enables a person to inspect (without charge) a policy under this section at the principal office.	It would be beneficial for Council to determine appropriate service centres for the public to access its policy albeit the Act only requires access from the principal office.
	The Act enables a person to purchase a copy of the policy and for Council to determine a fee.	If Council chooses to charge a fee for persons to purchase a copy of the policy it will be appropriate for the fee to be consistent with that charged for other policies of Council.