



HUON VALLEY COUNCIL

Procedures for Tenders and Contracts

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Previous policies withdrawn or amended	<i>Huon Valley Council Code for Tenders and Contracts, September 2005</i>
Department responsible for implementation	All Departments
Department responsible for policy	Legal and Governance Services
Publication of policy	A copy of the Procedures be placed on the Council's website and copies be made available for inspection at the Customer Service Centre

1. Purpose and Background

Pursuant to section 333B of the *Local Government Act 1993* the Huon Valley Council has adopted the *Code for Tenders and Contracts GOV-CORP 013* (the Code).

Clause 4.1 of the Code provides that, consistent with the requirements specified in regulation 28, Council will establish and maintain local level procedures to:

- ensure all potential Providers are provided with the same information relating to the requirements of an open tender process or contract and are given equal opportunity to meet the requirements
- that fair and equitable consideration is given to all tenders or quotations received
- deal honestly with and be equitable in the treatment of all potential Providers
- ensure a prompt and courteous response to all reasonable requests for advice and information from potential or existing Providers
- protect commercial in confidence information and
- review each tender process to ensure that each tender is in accordance with the Regulations and this Code
- Council will also establish and maintain procedures for:
 - amending or extending a tender once it has been released
 - opening tenders
 - the consideration of tenders that do not fully conform with the tender requirements
 - handling complaints regarding processes related to the supply of goods or services

2. Policy Statement

Council will have regard to the following principles when acquiring goods and services:

- Open and Effective Communication
- Value for Money
- Enhancement of the capabilities of the Local Business industry
- Ethical behaviour and fair dealing

and has adopted the procedures herein for that purpose.

During the planning phase of a purchase where written quotations or tenders are to be requested the following steps may be taken by the General Manager; or their delegated or authorised officer.

- any relevant approval to undertake a purchase is obtained;
- an estimate of the cost of the good or service is undertaken and available Council funding of such a purchase is confirmed and an appropriate method of purchasing is chosen;
- the specification is defined and mandatory requirements are identified.
- the establishment of an evaluation committee (Tenders);
- the establishment of evaluation criteria and evaluation methodology (Tenders);

- the development of a risk and safety assessment and management plan; and
- the commencement of a contract management plan.

There are three tendering and procurement thresholds that require different levels of involvement in planning and executing the purchase.

3. Application

These procedures apply to the assessment of Tenders and request for quotations under the Code.

4. Definitions

In these Procedures terms and expressions will have the same meaning as in the Act, Regulations or the Code unless the contrary appears.

5. Procedures

These procedures set out the process for dealing with any given procurement process to ensure Council is consistent with the requirements specified in Regulation 28 of the *Local Government (General) Regulations 2005* (Regulations) and the Code.

5.1 Planning the Purchase

The following table refers to the thresholds and summarises what purchasing method Council utilises based on the total dollar value of the purchase.

Procurement Value	Minimum Requirement
\$10,000 and below	Direct Purchasing This is where Council purchases from a single source, without first obtaining competitive quotes. This method will be used only for low value, low risk goods and services .
\$10,001 and \$30,000	Request for Verbal Quotations This is where Council will only enter into a contract where 3 quotations from suitable Providers able to provide the goods or services have been sought where possible. At least one verbal quotation must be obtained from a Local Business;
Between \$30,000 and \$249,999	Request for Quotations (RFQ) Council will enter into a contract where 3 written (including email) quotations from suitable Providers able to provide the goods and or services have been sought. Where less than 3 suitable Providers are reasonably available, records outlining this circumstance will be kept. At least one quotation must be obtained from a Local Business;
\$150,000 and greater	Standing Tender Council will advertise each tender at a minimum in the Mercury newspaper. Other advertising may be utilised as required. Each tender will be advertised on Council website. Council will seek at least one tender from a Local Business (if available).
\$250,000 and greater	Tender - processes for acquisition of goods and or services Council will advertise each tender at a minimum in the Mercury newspaper. Other advertising may be utilised as required. Each tender will be advertised on Council website. Council will seek at least one tender from a Local Business (if available).

Council will apply the above requirements to the purchase of all goods and services with the exception of the circumstances listed in the Code.

5.2 Purchasing Documentation

5.2.1 Direct Purchasing

This is where Council purchases from a single source for purchased below \$10,000 excluding GST, without first obtaining competitive quotes. This method is only used for low value, low risk goods and services where the Provider already has a successful history with the Council.

5.2.1 Verbal Quotations (for purchases between \$10,001 and \$30 000 excluding GST)

Three verbal quotations from suitable Providers able to provide the goods or services have been sought where possible. At least one verbal quotation must be obtained from a Local Business. Records must be kept of quotations received and quotations approved and follow up written confirmation of quotations (whether in hard copy or email form) should be requested.

5.2.2 Written Quotations (for purchases between \$30 000 and \$249,999 excluding GST)

The Request for Quotation (RFQ) is a document inviting offers from Providers to provide a quote for specified good or service. An RFQ may be in letter form. Council's quotation documents will include all terms and conditions of quotation, together with a clear description of the goods or services (specifications) required, and the details of any applicable Council policies.

Purchasing goods and or services through the National Procurement Network (NPN) is an option for Councils. Purchasing through this mechanism involves an RFQ process. Items with a financial value above the prescribed amount may be legitimately purchased through the Network RFQ process. Use of the Network as a purchasing option for Councils is provided for under Regulation 27.

The complexity of the documentation will depend upon the nature and value of the purchase.

5.2.3 Tenders (for purchases greater than \$250,000 excluding GST)

Council's Request for Tender (RFT) is a document inviting offers from Providers for the provision of specified goods or services valued at or above a prescribed amount. The prescribed amount is \$250,000 (GST exclusive).

Council will though call for tenders for a standing contract with the cumulative amount of goods and services to be provided over the life of the contract exceeds \$150,000.

Council's Request for Tender documentation usually consists of four main parts as follows:

i. Conditions of Tender

The Conditions of Tender set out the terms under which Council will receive and evaluate tenders. The conditions will usually include:

- evaluation criteria and a brief outline of the evaluation methodology to be used;
- closing date, time and place of lodgement;
- Council contact details;
- pricing requirements (eg the price should exclude GST);

- details of the intended duration of the contract, including any extensions applicable to the contract;
- advice and details on the availability of any briefing sessions for prospective tenderers;
- details on how tenders are to be lodged. This may include a requirement for tenders to be lodged; in hard copy form either through the post or placed in a relevant tender box as specified by the Council; in electronic form, via email or via a website or portal specified for that purpose; and marked in a certain manner such as “Confidential – Tender”;
- advice on how and in what circumstances the purchasing documentation can be altered;
- advice on the treatment of late submissions;
- an indication if alternative proposals will be considered;
- relevant Council policies and principles;
- entitlement of unsuccessful tenderers to be debriefed; and
- information on the Council’s complaints process.

ii. Specification

The specification clearly and accurately describes the requirements of the goods or service being purchased. It is the basis of all tender proposals and is the foundation for the contract.

The specification will usually include functional requirements, performance requirements and technical requirements.

iii. Conditions of Contract

The Conditions of Contract contain the contractual terms defining the obligations and rights of the parties concerned. Generally, contracts are used for all purchases over \$100,000, or where there is material risks involved.

iv. Tender Form

The Tender Form must be completed, signed and returned by the Tenderer. It includes a declaration by the Tenderer that: the Tenderer agrees to the Conditions of Tender; the information provided in the tender is accurate and correct; and the person signing the form is duly authorised to do so.

When preparing tender documentation Council will ensure that specifications do not restrict competition, reflect bias to any brand, or act as a barrier to the consideration of any alternatives.

Where applicable Tender Documentation will be cleared by Council’s legal advisers and the General Manager before being issued.

5.3 Inviting Offers

5.3.1 Verbal Quotations

When inviting verbal quotations the General Manager will provide each Provider with the same information and will give each Provider the same amount of time to prepare a quote; and seek at least one verbal quotation from a Local Business (if available).

5.3.2 Written Quotations

When inviting written quotations:

- where possible, the General Manager will seek at least three written quotations of which one quotation will be sought from a Local Business if available;
- in some cases, the General Manager may choose to advertise a quotation if advantageous to do so;
- the General Manager will send the invitation to quote to identified Providers;
- the General Manager will issue the request for quotation documentation either by mail, facsimile or email;
- the time the General Manager provides to Providers to respond to the request for quotation will depend largely upon the nature and the complexity of the purchase; and
- exemption from seeking quotations will only be granted by the General Manager in circumstances outlined in the Code.

5.3.3 Tenders

When inviting tenders:

- Tenders will be advertised as required under 7.2.1 of the Code;
- Tender Documentation will either be made available via mail, email, facsimile or electronically available, from Council's website at www.huonvalley.tas.gov.au or any website or portal specified by the General Manager for the purposes of accepting tenders (any electronic or online tendering process undertaken by Council will be in accordance with the requirements of the *Electronic Transactions Act 2000*);
- The General Manager may send Tender Documentation directly to identified Providers, however, any documentation will not be provided to a Provider until the tender has been advertised;
- The General Manager will endeavour to obtain a minimum of two tender proposals of which at least one is sought from a Local Business if available;
- The General Manager will ensure that all potential Providers are provided with identical information upon which to base tenders and are given equal opportunity to meet the requirements;
- The General Manager will ensure that sufficient time has been provided to allow Providers to prepare an adequate response. At a minimum, tenders will be open for 14 consecutive days (including weekends and holidays). However, this may increase dependant on whether the requirements are complex, or if it is likely that interested Providers may need to form partnerships/consortiums with other Providers in order to fulfil the tender requirements;
- The General Manager may conduct a Tender Briefing;
- The General Manager will endeavour not to modify the evaluation criteria or methodology after the Tender Documentation has been released, however if for any reason, there is a need to alter the tender documentation once it has been issued, an addendum will be sent to all Providers that have been issued with that documentation; and
- If it is necessary to extend the closing date of the tender the following will be done:
 - all Providers that have been issued with tender documentation will be advised in writing of the change in closing date; and
 - the new closing date will be advertised in all newspapers and websites where the original advertisement was placed.

5.4 Contact Officer

For the purposes of communication with all potential Providers the General Manager is to nominate one Contact Officer for each purchasing activity and clearly specify their name and contact details

The Contact Officer will:

- be the sole point of communication with prospective Providers and document any questions asked of them by prospective providers and any response given;
- where possible, request that questions from prospective Providers be put in writing and may be sent in electronic form. Any response from the Contact Officer will also be provided in writing and may be provided in electronic form in the same manner as the quotations have been provided; and
- where possible, limit the provision of information to the clarification of procedural issues.

Any additional information provided to one prospective Provider is also provided to everyone else who has requested or received tender documentation.

5.5 Receiving Offers

5.5.1 Verbal and Written Quotations

Any written or verbal quotation received prior to the closing time will be held in a secure location to maintain confidentiality and to protect the individuals involved from claims of unfair practices. This will include where the written or verbal quotation is received or recorded in the electronic form only.

All quotations that the Council receives will be clearly marked with the time and date of receipt.

For written quotations, the General Manager will follow the procedures set out in the conditions of quotations for any late quotations and by receiving a late quotation will ensure that the Council is not providing an advantage to that Provider over other Providers.

5.5.2 Tenders

The General Manager may provide a tender box at the designated tender lodgement location, or a secure email address, website or portal for electronic lodgement.

When opening tenders the General Manager will ensure that tenders are:

- opened in the presence of a minimum of two Council Officers; and
- clearly identified and recorded.

The General Manager will ensure that receipt of tenders are acknowledged in writing prior to evaluation however the tenderer is to be advised that such acknowledgement does not constitute acceptance of the tender or that the tender is complete or in compliance with the request for tender.

The General Manager will follow the procedures set out in the conditions of tender for any late tender submissions and by accepting a late tender will ensure that it is not providing an advantage to that bidder over other bidders.

5.6 Evaluating Offers

5.6.1 Verbal and Written Quotations

The General Manager when evaluating verbal and written quotations is to do so with the objective of identifying the offer that best meets Council's requirements and provides the best value for money. When evaluating quotations the factors set out in the Clause 5.2 of the Code are to be considered.

5.6.2 Tenders

Tenders will be evaluated in accordance with the evaluation criteria and methodology specified in the Tender Documentation. Council will not modify the evaluation criteria or methodology after the Tender Documentation has been released unless all potential Providers are advised of the change in writing.

Evaluation of Tenders is to be undertaken by an Evaluation Committee established by the General Manager. An Evaluation Committee is to consist of at least four members including across departmental representation. The General Manager may engage persons who have expertise in the particular area of purchase to provide advice and assistance to an Evaluation Committee however that person does not have any voting or decision making role.

In evaluating tenders the Evaluation Committee is to undertake the following steps:

i. Evaluate compliance

Screen all tenders to ensure that they are complete, meet the Conditions of Tender, and comply with all mandatory evaluation criteria. Tenders which do not meet all mandatory criteria and are non-compliant may be excluded from further evaluation.

ii. Clarify offers

It may be necessary to seek clarification from a Provider if an offer is unclear. Clarification does not mean that Providers can revise their original offer. Any clarification sought should be documented.

iii. Evaluate qualitative / non-cost criteria

This stage involves an analysis of each offer against the non-cost or qualitative evaluation criteria and weightings specified in the Tender Documentation (the Provider must demonstrate that they meet the evaluation criteria, not just assert it).

iv. Shortlist offers

This step is only used for complex purchases in order to eliminate offers that are clearly not competitive. However, during this process, eliminated offers are not yet totally rejected, and may be re-visited later in the evaluation process.

v. Requests for Tenderers to make a formal presentation

If appropriate, and Providers have been forewarned in the Conditions of Tender, Providers may be requested to make a formal presentation to the Evaluation Committee, clarifying their tender and providing the opportunity for the committee to ask questions. Under these circumstances, the Provider will be directed to not introduce new or revised information. All information, questions and answers will be recorded by the Council.

vi. Select preferred tenderer

When selecting the tender that represents the best value for money for Council and where two or more Providers are ranked equally following the value for money assessment, preference will be given to a Local Business over Providers outside the municipal area. The Council may give preference to a Local Business in accordance with clause 6.3 of the Code. In selecting a preferred Provider for a high risk/high value or complex process, the Council may undertake a due diligence investigation to ensure that the Provider has the capacity and stability to fulfil all of the requirements of the contract.

vii. Write the evaluation report

On completion of the evaluation process the Evaluation Committee will document the selection of a successful Provider in an Evaluation Report to be submitted to the General Manager. An Evaluation Reports is to include a record of the evaluation method, the rationale used to select the preferred Provider, and whether it is recommended that negotiations should be undertaken, and on what basis.

5.7 Determination - Acceptance of Tenders and Quotations

Tenders and Quotations will be determined and accepted in accordance with applicable delegations or by Council approval.

For tenders not approved under delegation or tenders or quotations referred to the Council the General Manager is to present a report to the Council providing a recommendation and including as Attachments to that Report a copy of the Evaluation Report. Tender Documentation and any other documents are to be made available to Councillors on request pursuant to Section 28C of the Act.

5.8 Notification of Successful and Unsuccessful Providers

Once a preferred Provider is selected and all relevant approvals to proceed with the purchase have been granted, the General Manager shall write and (in most cases) telephone the preferred Provider to notify them that they have been successful. After the preferred Provider has been notified, the General Manager will notify all unsuccessful Providers in writing of their non-selection.

Unsuccessful Providers may request a debriefing session.

5.9 Debriefing Unsuccessful Providers

The purpose of the debriefing session is to help unsuccessful Providers submit more competitive tenders in future by identifying ways in which the Provider's offer could be improved.

A debriefing interview will be provided to any unsuccessful Provider who requests one and at this interview the unsuccessful Provider will be briefed as to:

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

During this interview, the following will not happen:

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

The Council's debriefing team will include at least one member from the Tender Evaluation Committee.

Proceedings at each debriefing interview will be documented including:

- who attended (from the Council and from the Provider concerned);
- the information provided to the unsuccessful Provider;
- any issues arising; and
- the details of any information that was requested, but not disclosed due to commercial-in-confidence considerations.

Where a multiple-stage purchasing process is used (for example where Expressions of Interest are used to short-list Providers) Providers not short-listed may be offered a debriefing interview at the discretion of the General Manager, in a similar way to unsuccessful Providers.

5.10 Contract Management

A contract defines the rights and obligations of both parties once the tender is awarded. A contract is established when an offer is made and accepted. A contract comprises all relevant information provided to and by the Providers which has made the successful offer and includes:

- the Conditions of Tender;
- the specifications, including any plans and other attachments;
- the successful offer; and
- the conditions of contract.

For complex or high value purchases it may be necessary for Council to enter into negotiations prior to finalising the contract in consultation with Council's legal advisers.

The purpose of these negotiations is to:

- test the understandings and assumptions made by Providers in determining their costs;
- clarify and rectify any false assumptions; and
- achieve operational refinements and enhancements that may result in cost reductions.

The outcomes of these negotiations will be reflected in the final contract and once completed and agreed, the formal contract is then signed by both parties.

A formal contract management plan is not required for all contracts, but the Council may develop plans for contracts that involve large dollar amounts, complex technical requirements, or when the contract manager is responsible for managing a large number of contracts simultaneously.

5.11 Standing Contracts

A standing tender is established in the same manner as for an open tender process where the specification and description of the tender describe the intent of the standing contract and the conditions of its use and in accordance with clause 7.3.1 of the Code.

5.12 Multiple-use register

Council may utilise a multiple-use register process in accordance with clause 7.3.2 of the Code. The process may be used to establish a register of Providers that Council has determined satisfy the conditions for participation in that register, and that Council intends to use more than once.

5.13 Multiple-stage tenders

Council may utilise a multiple-stage tendering process in accordance with clause 7.2.2 of the Code and in accordance with the relevant clause for each stage.

A multiple stage tender will be evaluated in accordance with the evaluation criteria and in accordance with procedure 5.6.2.

6. Review:

Council will formally review this procedure at least every four years, or on an as needs basis in conjunction with the Code.