



HUON VALLEY COUNCIL

Code for Tenders and Contracts

GOV-CORP-013

Version Number	Approval Date
1	13 October 2014
2	28 October 2015
3	29 November 2017
4	25 September 2024

Authority and Other Information	
Date of approval	25 September 2024
Source of approval	Council Resolution No. 16.071/14 Reviewed by Resolution No. 15.035/15* Reviewed by Resolution No. 15.048/17* Reviewed by Resolution No. 15.034/24*
Date of commencement	13 October 2014
Source of authority	Section 333B of the <i>Local Government Act 1993</i>
Legislative Reference	Sections 333A and 333B <i>Local Government Act 1993</i> Regulations 23 – 29 of the <i>Local Government (General) Regulations 2015</i>
Delegations	Delegation No. 154524 Council to the CEO delegated authority to approve the opening of a Public Tender and execute a Contract resulting from a Tender. Miscellaneous Management Functions Instrument of Delegation 28 June 2024 (Delegation #732702 General Counsel to sign and execute the final Contract/Agreement post Tender (or Quotation)).
Strategic Plan Reference	2 & 5
Date of review	At least once every 4 years Next review due on or before March 2028
Previous policies withdrawn or amended	Huon Valley Council <i>Code for Tenders and Contracts (GOV-CORP 013)</i> - Version 3 dated 29 November 2017 Procedure for Tenders and Contracts (2017)
Department responsible for implementation	All Departments central administration by People & Corporate Services
Department responsible for policy	Office of General Counsel
Publication of policy	A copy of the <i>Code for Tenders and Contracts GOV-CORP 013</i> is to be placed on <i>Council's</i> website and copies be made available for inspection at the Customer Services Centre and Staff internet.

1. INTRODUCTION

- 1.1 Pursuant to section 333B of the *Local Government Act 1993* (**Act**) Council is required to adopt and comply with a Code for Tenders and Contracts (**Code**) which must:
- (a) be consistent with the Act.
 - (b) include any prescribed amount, manner, matter, situation, contract and promote any prescribed principles as set out in Regulations 23 to 29 (inclusive) of the *Local Government (General) Regulations 2015* (**Regulations**).
 - (c) be reviewed at least every four (4) years; and
 - (d) the Chief Executive Officer, is to make a copy of the Code available for public inspection at the Council's office during ordinary office hours, available for purchase and published on the Council website free of charge.
- 1.3 For the purpose of interpreting this Code, capitalised terms and phrases will have the meanings given in the Definitions Table 3 clause 12, unless the context provides otherwise.

2. PURPOSE

- 2.1 The Purpose of this Code is to:
- (a) embed best practice Procurement – being the process by which Council purchases Goods and Services.
 - (b) ensure compliance with the Act and Regulations.
 - (c) enhance value for money through fair, competitive, non-discriminatory Procurement.
 - (d) promote Council's economic, social and environmental plans and policies.
 - (e) ensure that competitive Local Providers are given opportunities to participate in Council Procurement.
 - (f) enables Council to appropriately manage risks associated with Procurement.
 - (g) provide clear procedural guidelines, to Council Officers including minimum requirements for the Procurement of Goods or Services whilst also satisfying transparency and probity requirements; and
 - (h) this Code includes a statement of Prescribed Procurement Principles (clause 9) which

underlines the best practices to be applied by:

- (i) Council Officers who organise and or participate in Procurement:
- (ii) Service Providers when they undertake Procurement on behalf of Council;
and
- (iii) Suppliers when engaged by Council to supply it with Goods and Services.

3. SCOPE

- 3.1 This Code applies to:
- (a) the Procurement by Council of Goods and Services (subject to the exemptions and exclusions set out in clauses 5, 6 and 7 of this Code).
 - (b) the undertaking of Requests for Tenders, Requests for Quotations and requests for proposals or expressions of interest relating to Procurement; and
 - (c) the Procedures and Procurement Templates that the Chief Executive Officer will ensure are established and maintained pursuant to Regulations 23 to 29 (inclusive) to implement this Code.
- 3.2 This Code does not apply to State or Federal Government grants or financial assistance or donations to Council, real property transactions or leasing of Council land or Public Land by Council.
- 3.3 This Code applies to the Chief Executive Officer, all Councillors, all Council Officers and Responsible Delegates.
- 3.4 This Code also applies to any Service Provider engaged by Council to undertake a Request for Public Tender or Request for Quotation on behalf of Council and this obligation must be included as a contractual term in the engagement contract between the Service Provider and Council.
- 3.5 Any breach of this Code by a Supplier or Services Provider may, in Council's absolute discretion, result in Council taking legal action against the Supplier or Services Provider.

4. PROCUREMENT THRESHOLDS

- 4.1 The Act and Regulations, set out a scale of financial values that determine when Council can obtain Quotations and when a Public Tender must be undertaken for Procurement (see **Table 1 - Procurement Thresholds**).

- 4.2 As at the date of this Code, Regulation 23 states that the minimum financial value for Procurement to trigger the requirement for a Public Tender is \$250,000 (GST Ex) **(Prescribed Amount)**.
- 4.3 If the estimated financial value for a Procurement falls below and within 20% of the Prescribed Amount, then the Responsible Director will have discretion to recommend that the Procurement Threshold may be deemed to equate to the Prescribed Amount and trigger the regulatory requirement for a Public Tender.
- 4.4 Council may by Absolute Majority resolve that, even if the Procurement financial value is less than the Prescribed Amount, a Public Tender should still be undertaken if the procurement risk is high, technically complex or likely to involve public scrutiny or if the nature/type of Procurement is one that Council is not experienced in or familiar with.

5. EXEMPTIONS TO PROCUREMENT THRESHOLDS FOR QUOTATIONS

- 5.1 A Procurement process can occur without complying with the Quotation requirements Table 1: Items 1-3 (inclusive) if any one of the following exemptions apply:
- (a) in response to a previous Request for Quotation, no Quotes were received or those received, failed to conform to the mandatory requirements of the Request for Quotation.
 - (b) the Goods or Services can only be supplied by a particular Supplier and no reasonable alternative Supplier or substitute Goods and Services exist.
 - (c) the Goods or Services are only additional deliveries from an existing Supplier intended as replacement parts or are merely a variation of an existing Contract for procurement of Goods and Services with the same existing Supplier for a financial value of less than the Procurement Threshold (that is, the variation does not take the financial value of the Contract over \$250,000 (GST Ex)).
 - (d) there is an Emergency.
 - (e) where a valid Quotation has been received within the last 3 months for the same Goods or Services (that is, representing evidence of recent value for money comparison).
 - (f) for Procurement made under exceptionally advantageous conditions that only arise in the very short term, such as – liquidation, bankruptcy, “fire sales” – and

non-routine purchases from regular Suppliers.

- (g) a satisfactory result would not be achieved by inviting any Quotes because of one of the following reasons:
 - (i) extenuating circumstances; or
 - (ii) the remoteness of the locality; or
 - (iii) the unavailability of competitive or reliable alternative suppliers.

5.2 An application for exemption under clause 5.1 must be made in writing by a Council Officer to the relevant Responsible Delegate (see: **Table 1 – Procurement Thresholds**).

6. PRESCRIBED SITUATIONS: NON - APPLICATION OF PUBLIC TENDER PROCEDURE

Pursuant to Regulation 27(a) and (i), even if the Procurement Threshold for a Public Tender is satisfied, the requirement for a Public Tender does not apply in the following **Prescribed Situations**:

- (a) (Regulation 27(a)): where, in the opinion of the Chief Executive Officer there is an Emergency and there is insufficient time to invite Public Tenders for the Goods and Service required in that Emergency; or
- (b) (Regulation 27(i)): where, Council resolves by Absolute Majority that a satisfactory result would not be achieved by inviting Public Tenders because of one of the following reasons:
 - (i) extenuating circumstances; or
 - (ii) the remoteness of the locality; or
 - (iii) the unavailability of competitive or reliable Tenderers.

7. PRESCRIBED CONTRACTS: NON - APPLICATION OF PUBLIC TENDER PROCEDURE

Pursuant to Regulation 27 (b) to (h) inclusive and (j), even if the Procurement Threshold for the Prescribed Amount is satisfied, the requirement for a Public Tender does not apply to the following **Prescribed Contracts**:

- (a) a contract for Goods or Services to be supplied to Council through an agency of the State or Federal Government.

- (b) a contract for Goods or Services to be supplied to Council by another council, a Single Authority, a Joint Authority or the Local Government Association of Tasmania (**LGAT**).
- (c) a Contract for Goods or Services has been obtained (and entered by Council) as a result of a Tender process conducted (not by Council) but by one of the following entities:
 - another council;
 - a Single Authority or a Joint Authority;
 - LGAT; or
 - any other local government association in Tasmania or in another State or Territory or Australia.
- (d) a contract for Goods or Services in respect of which Council is exempt under any other act or legislation from the requirement to conduct a Public Tender.
- (e) a contract for Goods and Services that is entered into at or via a public auction.
- (f) a contract for insurance entered by Council through an insurance broker.
- (g) a contract arising when a Council is directed to acquire Goods or Services or due to an insurance claim.
- (h) a contract of employment with a person as an employee of the Council.

8. PUBLIC TENDER

- 8.1 Pursuant to Regulation 23(2), a Public Tender must be publicly invited by one of the following methods:
 - (a) An Open (Public) Tender (Regulation 24).
 - (b) A Multiple User Register (Regulation 25); or
 - (c) A Multiple Stage Tender (Regulation 26).
- 8.2 The Procedure for each type of Public Tender listed in clause 7.1, is summarised in **Table 2: Public Tenders**.
- 8.3 Pursuant to Regulation 23(3), Council can, as a result of a Public Tender, establish a **Standing Contract** with one or more Suppliers for the provision of Goods or Services for a fixed period (**Term**) Contract, without the need to undertake a further Public Tender

every time specified Goods or Services are required to be Procured by Council during the Term of the Standing Contract/s.

- 8.4 Pursuant to Regulation 23(4), Council must not split the estimated financial value of a Procurement (for the same type of Goods or Services) into 2 or more separate contracts for the primary purpose of avoiding the requirement to conduct a Public Tender.
- 8.5 The estimated financial value of all Tenders and Quotations must be expressed on a GST Exclusive basis and calculated in accordance with Table 1: Procurement Thresholds Procedure.
- 8.6 Pursuant to Regulation 23(5), Council may extend the initial Term of a contract entered into as the result of a Public Tender:
- (a) if the extension or renewal of the Contract is provided for in a clause of the relevant Contract; or
 - (b) if the Contract does not contain a clause enabling the extension of the initial Term, then by Absolute Majority resolve to extend the initial Term (by a **Variation Agreement**) of a Procurement Contract entered as a result of any form of Public Tender listed in clause 8.1, without the need for a further Public Tender.

9 PROCUREMENT PRINCIPLES

This Code will be implemented in accordance with the following prescribed principles:

- value for money.
- ethical behaviour and fair dealing.
- encouraging open and effective competition.
- enhancement of the capabilities of local business and industry.

9.1 **Value for Money** means to achieve the desired outcome at the best possible price and the following factors may be considered in determining Value for Money:

- fitness for purpose.
- whole of life costs versus the lifetime of the product, goods or service.
- contribution to achieving Council's Strategy 2025 – 2035 including:-
 - advantages of buying locally (i.e., shorter lead times, availability of local backup and after sales service).
 - climate change and environmental considerations and energy costs and

- conservation.
 - social and local community economic benefit.
 - transparency and trusted government.
- risk assessment.
- quality assurance.
- disposal value.

9.2 **Ethical Behaviour and Fair Dealing** *means* acting ethically, being fair and unbiased and complying with all Council policies and applicable laws, in all dealings with Suppliers. The following standards must be applied when dealing with Suppliers:

- Council monies must be spent effectively and in accordance with all relevant Council policies.
- act and make Procurement decisions without favour or prejudice.
- comply with all applicable legal requirements.
- maintain confidentiality, at all times, in all communications, dealings and Contracts with Suppliers.
- decline gifts, gratuities or any other benefit which may, or could be reasonably perceived as impacting Procurement decision making and creating impartiality.
- must not disclose the bid (or Tender price) of any Supplier to another in order to play potential alternative Suppliers off against one another.
- avoid the purchase of Dumped Goods.

9.3 **Encouraging open and effective competition** *means* ensuring the Procurement process is impartial, open and focussed on encouraging competitive offers and this is encouraged via the following factors:

- publishing, promoting and implementing transparent and open Procurement Procedures set out in Tables 1 and 2.
- ensuring the market is adequately tested by seeking the correct number of Quotations or undertaking a Public Tender in accordance with Table 1 - Procurement Thresholds.
- avoid the use of biased, self-serving or Proprietary Specifications.
- treat all Suppliers consistently and equitably.

9.4 **Enhancement of the capabilities of local business and industry** *means*, where local capacity exists to:

- actively support Local Business to participate in Tender and Quotation processes where Local Business able to supply Goods or Services which are equivalent value and standard to external sources.

- actively seek Tenders or Quotes from Local Business particularly from those that have previously requested the opportunity to Tender or Quote.
- specify in all Tenders and Quotes the requirement that Council will implement the procurement principle of supporting Local Business (including local sub-contractors).
- specify in all Tenders and Quotes the specifications of the Goods or Services required by Council and specify the evaluation criteria (including the Local Business procurement principle) that will be used to assess all RFT and RFQ submission.
- use a Local Business in instances where the Local Business provides a Tender or Quote that price matches external sources and provides proximity of supply and standard of service.
- aim to use a Local Business where the Local Business Tender or Quote is within 5% of an external alternative supplier and the Local Business can provide Goods or Services of the same or similar standard to other competing Tenders or Quotes.

10 STAGE 1: OPENING A REQUEST FOR TENDER OR QUOTATION

- 10.1 In opening a Request for Public Tender (**RFT**) or Request for Quotations (**RFQ**) Council Officers must take into consideration the Procurement Principles (clause 9) and:
- ensure all potential suppliers are provided with the same information relating to the requirements of the RFT or RFQ and given equal opportunity to meet those requirements.
 - ensure fair and equal consideration is given to all RFTs or RFQs received.
 - ensure prompt, courteous and informative responses to all reasonable requests for advice or further information from potential or existing suppliers.
 - seek to minimise the cost to suppliers of participating in the RFT or RFQ process by making the Code freely available, providing all required information relating to the RFT or RFQ freely and publicly available.
 - protect commercial in confidence information (provided by Council, existing or potential suppliers).
 - if an RFT or RFQ is amended, after the original public advertisement, then the varied RFT information must be advertised to the public and all potential suppliers notified.
 - the assessment criteria and weighting of those criteria must be detailed in the RFT and RFQ.
 - the Responsible Delegate must provide a written de-briefing providing reasons for non-acceptance to all unsuccessful Tenderers and Quoters.

- 10.1 The Chief Executive Officer or Responsible Delegate will ensure that Procurement Templates are generated for RFTs and RFQs which comply with and implement this Code.

11 STAGE 2: EVALUATION OF TENDERS AND QUOTATIONS

- 11.1 Tenders and Quotes will be assessed in accordance with the evaluation criteria and methodology specified in the relevant RFT or RFQ.
- 11.2 If, for whatever reason, the evaluation criteria and methodology are varied once the RFT or RFQ has been publicly released, then the Responsible Delegate must republish the amendment via the same manner the RFT or RFQ was first published, to ensure all potential suppliers are informed of the change.
- 11.3 Quotations will be evaluated by a Council Officer and recommendations to enter a Contract with a preferred Supplier will be directed to the Responsible Delegate for approval and execution pursuant to the applicable Instrument of Delegation.
- 11.4 Tenders will be evaluated by the **Evaluation Committee** established by the Chief Executive Officer or Responsible Delegate, consisting of at least four (4) persons who have expertise in the subject matter of the Procurement including cross departmental representation. A Service Provider or external person/s invited by the Chief Executive Officer or Responsible Delegate to join the Evaluation Committee (having expertise in a particular area to provide advice to the Evaluation Committee) will not have any voting or decision making role. Each member of the Evaluation Committee (including a Service Provider) must complete a Conflict of Interest Declaration Form prior to commencement of the evaluation process.
- 11.5 The Evaluation Committee is to undertake the following steps in evaluating each Tender received:
- (1) **Evaluate compliance**
Screen all Tenders to ensure that they are complete, meet the conditions of the RFT, and comply with all mandatory evaluation criteria. Tenders which do not meet all mandatory criteria, are non-compliant will be excluded from further evaluation.
 - (2) **Clarify offers**
It may be necessary to seek clarification (**Request for Information**) from a

tenderer if a Tender is unclear. Clarification does not mean that tenderer can revise their original Tender. Any clarification sought should be documented.

(3) ***Evaluate qualitative / non-cost criteria***

An analysis of each offer against the non-cost or qualitative evaluation criteria and weightings specified in the RFT.

(4) ***Shortlist offers***

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

(5) ***Requests for Tenderers to make a formal presentation***

If appropriate alternate suppliers may be requested to make a formal presentation to the Evaluation Committee, clarifying their Tender and providing the opportunity for the Evaluation Committee to ask questions. Under these circumstances, the alternate suppliers will be directed to not introduce new or revised information. All information, questions and answers will be recorded by the Council.

(6) ***Select preferred tenderer***

When selecting the Tender that represents the best value for money for Council and where two or more Tenders 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 9.5 of this Code.

In selecting a preferred Tender for a high risk/high value or complex process, the Council may undertake a due diligence investigation to ensure that the preferred supplier has the capacity and stability to fulfil all of the requirements of the Procurement.

(7) ***Write the Evaluation Report***

On completion of the evaluation process the Evaluation Committee will document the selection of a successful Tenderer (or more than one) in a Evaluation Report to be submitted to Council at the next Ordinary Council Meeting. The Evaluation Report is to include a record of the evaluation

method, the rationale used to select the preferred Tenderer/s, and recommendation that contract negotiations should be undertaken, and on what basis.

12 STAGE 3: COUNCIL APPROVAL (Tenders Only)

- 12.1 The responsible Council Officer is to generate a Council Report and attach the Evaluation Report to it. The Council Report will make recommendations to Council including approving the preferred Tenderer and delegating the authority to negotiate and execute a Contract or Standing Contract with the preferred Tenderer or Tenderers.
- 12.2 Once the Council Report is approved by Council, the Responsible Delegate will notify the preferred Tenderer or Tenderers that they have been successful. The Responsible delegate will then notify all unsuccessful Tenderers in writing.
- 12.3 If an unsuccessful Tenderer requests a debriefing, the Responsible Delegate or Council Officer must schedule a debriefing meeting that must include at least one (1) member of the relevant Evaluation Committee and ensure that:
- (a) following does not occur at the debriefing: - comparisons between the unsuccessful Tender and the selected Tender and using the meeting to justify the selection of the successful Tenderer; and
 - (b) proceedings at each debriefing interview will be documented including:
 - o who attended (from the Council and from the Tenderer concerned);
 - o the information provided to the unsuccessful Tenderer;
 - o any issues arising; and
 - o the details of any information that was requested, but not disclosed due to commercial-in-confidence considerations.

13 STAGE 4: CONTRACT EXECUTION

- 13.1 Once the preferred Tender or Quote has been identified and approved (by either Council in the case of an RFT or the Responsible Delegate in the case of an RFQ) a Contract is required to be entered into by both Council and the relevant Supplier/s.

- 13.2 A Contract defines the terms and conditions, the rights and obligations of both Council and a Supplier regarding the Procurement of the Goods or Services by Council.
- 13.3 The Contract should be in the form provided in the Procurement Templates or the draft Contract submitted by the Supplier in those cases where the nature of the Goods or Services to be Procured by Council are of a regulated or highly specialised nature and it is more efficient and commercially appropriate for a Supplier to provide a draft Contract.
- 13.4 For Complex or High Value Procurement it may be necessary for Council to enter negotiations with the Supplier prior to finalising the Contract in consultation with Council's in house legal advisers (or external legal providers).
- 13.5 Once the Contract is ready to be signed, the Council Officer must:
- (a) deliver the Contract to the Supplier for execution and return (either electronically or hardcopy) to Council;
 - (b) determine the Responsible Delegate with authority to approve and sign the Contract on behalf of Council; and
 - (b) if the Responsible Delegate is the Chief Executive Officer then a CEO Pro Forma is to be prepared, signed by the Presenting Officer, endorsed by the Responsible Director and General Counsel and then presented to the Chief Executive Officer for approval and or execution under Council's common seal.

14. COMPLAINTS PROCEDURE

- 14.1 If a Tenderer or Quoter is not satisfied with the response provided by the Responsible Delegate in charge of either a RFT or RFQ, they are advised in the RFQ or RFT that they are able to write to: Chief Executive Officer, Huon Valley Council PO Box 210 Huonville TAS 7109.
- 14.2 The complainant must provide all correspondence and other material relevant to their complaint.
- 14.3 The Chief Executive Officer or Responsible Delegate will then take whatever action is necessary to deal with the complaint.

15. **REPORTING**

The Reporting Procedures that Council, Chief Executive Officer, Responsible Delegates and Council Officers must comply with in the implementation of this Code are summarised in Table 3: Reporting Procedures.

Table 1: PROCUREMENT THRESHOLDS

Financial Value² (\$) (GST Exclusive)	Risk Assessment ¹	Minimum No. of Quotes	Tender	Approver / Responsible Delegate
Less than \$10,000	Low financial value, Financial / Service Delivery Risk = Insignificant/Minor consequence category	1	No	Responsible Delegate
\$10,000 to \$49,999	Low financial value/Financial/Service Delivery Risk = Minor/Moderate consequence category	2	No	Responsible Delegate
\$50,000 to \$249,999	Medium financial value/ Financial / Service Delivery/ Reputation/ Regulatory & Compliance Risk = Moderate / Major consequence category	3	No	Responsible Delegate
\$250,000 and over (Prescribed Amount)	Major / Catastrophic Financial / Service Delivery / Reputation/ Regulatory & Compliance Risk, risk of cost escalations (known and unknown); an unfamiliar or technical Goods and Service Procurement	N/A	Yes Public Tender	Approver = Council at Ordinary Council Meeting (Closed) Execution of Contract = CEO = Responsible Delegate
20% or less than or \$250,000 (Deemed Prescribed Amount)	Major / Catastrophic Financial / Service Delivery / Reputation/ Regulatory & Compliance Risk, risk of cost escalations (known and unknown); an unfamiliar or technical Goods and Service Procurement	N/A	Yes deemed Public Tender	Council at Ordinary Council Meeting (Closed) Execution of Contract = CEO = Responsible Delegate

¹ Risk Assessment – Refer to Council’s *Risk Management Policy (ADOPTED FROM TIMETO TIME)*

² The dollar value of the Procurement must be calculated as follows:

- i. **A single one-off purchase** – the total estimated financial amount (GST Ex);
- ii. **Multiple purchases** – the total estimated value of all of the purchase transactions required to be made by Council from the same Supplier over a set, quantifiable period of time (GST Ex),

Table 2: PUBLIC TENDER PROCEDURE

Tender Type	Procedure	Responsible Delegate
<p>Open (Public) Tender</p> <p>Regulation 24(1) to (4) inclusive</p>	<p>Stage 1: Opening a Public Tender</p> <ul style="list-style-type: none"> - The CEO can open a Public Tender by placing at least one (1) advertisement in a daily newspaper or publish the Tender advertisement on the Council website and publish via Council’s electronic portal. - Tenders must be received in writing and lodged with Council no earlier than 14 calendar days after the date the public advertisement is published; and - The CEO or Responsible Delegate must ensure that the specifications contained in the Public Tender advertisement must strictly comply with the list of requirements set out in Regulation 24(1) to (4) inclusive, being: <ul style="list-style-type: none"> • the nature of the Goods & Services Council requires. • a copy of the draft Contract including the term / duration of the draft Contract. • the RFT number and title. • how and where the Tender is to be lodged. • the name and contact details of the Council Officer from whom more information about the Tender can be obtained from. • the timeframe in which the Tender must be lodged with Council. • the criteria for assessing / evaluating Tenders (including the Local Business procurement principle) received and the method of comparative evaluation of Tenders received. • any mandatory technical specifications or mandatory contract conditions required by Council (especially where suppliers are invited by Council to provide their version of a draft contract); and • a reference to this Code and where the Code can be viewed on the Council website free of charge. 	<p>CEO or Responsible Delegate</p>

Tender Type	Procedure	Responsible Delegate
<p>Multiple Use Register</p> <p>Regulation 25(1) to (9) inclusive</p>	<p>Stage 1: Opening a Multiple Use Register Tender</p> <ul style="list-style-type: none"> - Council may approve the establishment of a Register of Suppliers who meet criteria established by Council in respect of the Supply of a particular category of Goods and Services (aka “<i>vendor panel</i>”). - The CEO is to then to invite applications (aka “<i>expression of interest/EOI</i>”) from Suppliers for inclusion on a Multiple Use Register by publishing a public advertisement in a daily newspaper or publish the Tender advertisement on the Council website and Council’s electronic portal. - Tenders must be received in writing and lodged with Council no earlier than 14 calendar days after the date the public advertisement is published. - The CEO or Responsible Delegate must ensure that the specifications contained in the Public Tender advertisement must strictly comply with the list of requirements set out in Regulations 23 and 25(3)(a) to (d) inclusive, being: <ul style="list-style-type: none"> • the nature of the Goods & Services Council requires. • the RFT number and title. • how and where the Tender is to be lodged. • the name and contact details of the Council Officer from whom more information about the Tender can be obtained from. • the timeframe in which the Tender must be lodged with Council. • the criteria for assessing / evaluating Tenders (including the Local Business procurement principle) received and the method of comparative evaluation of Tenders received; and • a reference to this Code and where the Code can be viewed on the Council website free of charge. 	<p>CEO or Responsible Delegate</p>

Tender Type	Procedure	Responsible Delegate
<p>Multiple Use Register (Cont'd)</p>	<ul style="list-style-type: none"> - Council or its' Responsible Delegate may accept or reject any application for inclusion on the Multiple Use Register. - If Council or its Responsible Delegate rejects an application – the CEO or Responsible Delegate must advise the rejected applicant/s and provide written reasons for the rejection. - If Council or Responsible Delegate accepts an application – the CEO or Responsible Delegate is to advise the accepted applicant/s of the category of Goods and Services for which the applicant/s is/are to be included on a Multiple Use Register. - A Council or its' Responsible Delegate is then to invite Public Tenders (or Requests for Quotes depending on the application of the Prescribed Amount (See: Table 1 Procurement Thresholds Procedure) for the supply of Goods and Services from all Suppliers on a Multiple Use Register for a particular category of Goods or Services. - A Council or its' Responsible Delegate must allow a Supplier to apply for inclusion on a Multiple Use Register at any time, unless the Supplier has made an application within the previous 12 months for the same category of Goods and Services and that Supplier's application has been rejected. - A Multiple Use Register is to be reviewed at least once every 2 years. 	

Tender Type	Procedure	Responsible entity or Delegate
<p>Multiple Stage Tender</p> <p>Regulation 26 (1) to (7) inclusive</p>	<p>Stage 1: Opening a Multiple Stage Tender</p> <ul style="list-style-type: none"> - The CEO or Responsible Delegate may invite Expressions of Interest (EOIs) for a Contract for the supply of Goods & Services using a Multiple Stage Tender process. - The CEO or Responsible Delegate is to invite EOIs from prospective tenderers by publishing an advertisement in daily newspaper or publish the Tender advertisement on the Council website and Council's electronic portal, including the specifications listed in Regulation 26(3), being: <ul style="list-style-type: none"> • the nature of the Goods & Services Council requires. • the EOI number and title. • how and where the EOI is to be lodged. • the name and contact details of the Council Officer from whom more information about the EOI can be obtained from. • the timeframe in which the EOI must be lodged with Council. • the criteria for assessing / evaluating EOIs (including the Local Business procurement principle) received and the method of comparative evaluation of EOIs received; and • a reference to this Code and where the Code can be viewed on the Council website free of charge. - An assessment of the EOIs received is undertaken based on the assessment criteria detailed in the Step 1 EOI Process. - The CEO or Responsible Delegate is to then invite all of the prospective tenderers who have met the criteria determined by Council, to lodge a Tender for the Supply of the Goods or Services. If only one (1) prospective tenderer meets the Council's assessment criteria at Stage 1 and submits a Tender at Stage 3 (or Council resolves by Absolute Majority) to do so, then the Council may enter into a contract with that Supplier. - The CEO or Responsible Delegate is to ensure the consistency of the criteria used at each stage of the Multiple Stage Tender process. 	<p>or CEO or Responsible Delegate</p>

Table 3: REPORTING PROCEDURES

Act / Regulation Reference	Code reference	Responsible Delegate	Report To Whom	Report When Frequency
Regulation 29(1) & Regulation 23(5)(b) and Section 72(1)(e) Act	Summary of Contracts entered by Council OR extended in for financial value equal to or more than the Prescribed Amount (=/> \$250K GST Ex): Summary to include: - Description; Term/duration; Options for renewal of extension of the term/duration of the Contract; financial value (GST Ex); Business name/address of the supplier/contractor.	CEO (Data collected by Procurement Officer from all Teams/Units)	Council Inclusion in Annual Report	For the Financial Year to which the Annual Report relates
Regulation 29(2) & Regulation 27(a) & (i) (only) and Section 72(1)(e) Act	Summary of Contracts entered by Council where the Prescribed Amount has been triggered but – one of the 2 exemptions set out in Clause 6 of this Code Prescribed Situation has applied and no Public Tender was actioned. Summary to include: - Brief reason/description of the Prescribed Situation event; description of the Goods & Services acquired; Value of Contract; Name of the Supplier/Contractor.	CEO (Data to be collected by Procurement Officer from all Teams/Units)	Council Inclusion in Annual Report	For the Financial Year to which the Annual Report relates
Act / Regulation	Code reference	Responsible	Report	Report When

Reference		Delegate	To Whom	Frequency
Regulation 29(3) and Section 72(1)(e) Act	<p>Summary of <u>all</u> Contracts entered by Council (or extended) (either by Quotation or Tender or Prescribed Contract (clause 5) for financial value of equal to or more than (=>\$100,001 (GST Ex) but less than Prescribed Amount (=<\$250K GST Ex).</p> <p>Summary to include: - description of the Contract; the term/duration; options to renew or extensions of term; business name of the supplier/contractor; business address of the supplier/contractor</p>	CEO (Data to be collected by Procurement Officer from all Teams/Units)	Council Inclusion in Report	For the Financial Year to which the Annual Report relates
Regulation 28(j) and Section 333B Act	CEO must report to Council in relation to all Procurement Contracts for Goods & Services when a Public Tender or Quote Procedure was triggered but was not used and did not fall into any of the Prescribed Situation or Prescribed Contract exemption categories.	CEO	Council	Quarterly

9. Table 3: DEFINITIONS

Term/Phrase	Meaning
Absolute Majority	Has the same meaning as given in section 3 of the <i>Local Government Act 1993</i>
Annual Report	Has the same meaning as given in section 72 of the <i>Local Government Act 1993</i>
Code	Means the Code relating to Tenders and Contracts adopted by Council pursuant to section 333B of the <i>Local Government Act 1993</i>
Complex or High Value Procurement	<p>Means procurement of Goods or Services which is:</p> <ul style="list-style-type: none"> • <i>Complex</i> meaning procurement of subject matter, materials or contractual nature that is unusual, novel, not standard Council business and of specialist nature - for example, multi staged commercial building construction; installation of specialist information technology software or hardware; multi-party contractual stakeholders or involving third party funding; and • <i>High Value</i> meaning procurement of a financial value of more than \$1 million (GST Ex).
Conflict of Interest Declaration Form	Means the Procurement Template form that each member of a Evaluation Committee must complete and sign prior to the commencement of any Tender. The declaration will record any actual or perceived or potential conflict of interest the member has with any of the potential suppliers who have submitted a Tender.
Contract	Means an agreement that establishes a legally binding relationship between Council and a Provider that stipulates each party's responsibilities, obligations and seeks to protect both entities throughout the procurement process.
Council Officer	Means any Council employee.
Dumped Goods	Means goods that are manufactured overseas and imported into Australia at less than their normal market value causing material injury to an Australian business or industry manufacturing the same or similar goods or hinder the establishment of an Australian based industry.
Emergency	Has the plain English meaning given in the Australian Macquarie Dictionary (9 th Ed) being – an unforeseen occurrence; a sudden or urgent event.

Financial Year	Means the 12-month period commencing 1 July and ending 30 June the following year.
Goods and or Services	Includes building and construction works, civil works, materials, plant and equipment, professional and consulting services.
Direct Purchasing	Means the process of acquiring Goods & Services without first seeking competitive Quotes or implementing a Tender process.
Instrument of Delegation	Means the internal delegation of authority by the CEO to a Council Officer to approve expenditure on behalf of the Council for Procurement of Goods & Services to a specific financial threshold or to action and implement any element of this Code.
Joint Authority	Has the same meaning as given in section 30 of the <i>Local Government Act 1993</i>
Local Business or Local Supplier	Means any business or Supplier operating within the Huon Valley and having a permanent office or presence in the Huon Valley and employing workers from the Huon Valley.
Prescribed Amount	<p>Pursuant to section 333A of the Act Council must invite Public Tender for any Contract it intends to enter for the purchase of Goods & Services valued at or above the Prescribed Amount.</p> <p>As at the Approval Date Regulation 23(1) states that the Prescribed Amount is \$250,000 (GST Exclusive)</p> <p>The Tender requirement set out in Section 333A is subject to 2 exemptions – Prescribed Situations and Prescribed Contracts - and the Procedure for these exemptions are set out in clauses 6 and 7 of this Code.</p>
Procedure	<p>Means a series of steps, taken together to achieve a particular end result.</p> <p>This Code must, to comply with section 333A of the Act, include a Procedure to ensure that Tenders must be invited and made, in the prescribed manner set out in the Regulations.</p>
Procurement	<p>Means the active process of buying goods and services, including direct purchasing, quotation and via tenders. The penultimate step in the Procurement Procedure is a Contract being entered into by a supplier/contractor/vendor and buyer/purchaser.</p> <p>And Procuring has a corresponding meaning.</p>
Procurement Templates	Means the set of forms, documents and contract templates that will be generated to implement this Code and each Stage 1-4 of the Procurement process for both Tenders and Quotations.
Procurement Risk	Means the identification of potential risks associated with a Procurement Procedure and/or Contract, assessing the risk's

	severity, assigning the relevant mitigating actions, and designating risk 'owners' responsible for each risk recorded.
Procurement Templates	The forms and documents that will be generated to implement this Code, embed the Procurement Principles for the Request for Tender Procedure and the Request for Tender Procedure.
Proprietary Specifications	Means technical specifications, for construction drawings or designs generated by a supplier who wants to solely own those technical specifications and in turn secure the Procurement Contract., having a commercial advantage over other, alternative suppliers.
Provider	Means an external Supplier or contractor that has entered a Contract to provide Goods and or Services to Council.
Public Land	Has the same meaning as given in section 177A (1) of the <i>Local Government Act 1993</i> .
Quote and Quotation	Means a written document that a supplier or contractor provides to the Council offering to supply goods, services and/or works at a stated price, under specific conditions.
Regulation	Means a subsidiary rule set out in the <i>Local Government (General) Regulations 2015</i> , for the purpose of implementing sections 333A and 333B of the Act.
Responsible Delegate	The CEO or delegated council officer pursuant to an Instrument of Delegation.
Risk Assessment	Means a systematic process of evaluating the potential risks that may be involved with a procedure.
Service Provider	Means a third party engaged by Council to undertake Procurement on behalf of Council for Council business.
Single Authority	Has the same meaning as given in section 30 of the <i>Local Government Act 1993</i> .
Supplier	Means a person, partnership, company or any other legal entity that is capable of providing goods or services or works to Council. Interchangeable with both contractor and Provider.
Tender and Public Tender	Means a public invitation by Council to the open market of prospective tenderers or Suppliers via: <ul style="list-style-type: none"> • an open tender under Regulation 24. • multiple use register Regulation 25; or • multiple stage tender under Regulation 26
Variation Agreement	Means the Procurement Template that enables a Contract to be varied in any way including extending the initial Term of a Contract, which must then be signed by both Council and the Supplier.