



NORTHERN MIDLANDS COUNCIL

POLICY MANUAL

CODE OF TENDERING AND PROCUREMENT

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- Amended Date/s:** Amended 26 August 2002 Min. No. 330/02
Amended 19 December 2005 Min. No. 424/05
Amended 17 July 2006 Min. No. 249/06
Amended 16 May 2011 Min. No. 123/11
Amended 14 October 2013 Min. No. 274/13
Amended 17 August 2015 Min. No. 221/15 (incorporating Council Policy on Open Tenders)
Amended 17 September 2018 Min. No. 252/18
- Applicable Legislation:** *Local Government Act 1993*
Local Government (General) Regulations 2015
- Objective** This Code of Tendering and Procurement (Code) provides a policy framework on purchasing and tendering requirements for Council.
- Administration:** Corporate Services
- Review Cycle/Date:** At least every 4 years. Next review 2022

1. PURPOSE

The Code aims to:

- a) ensure compliance with relevant legislation;
- b) enhance value for money through fair, competitive, non-discriminatory procurement;
- c) promote the use of resources in an efficient, effective and ethical manner;
- d) encourage probity, accountability and transparency in decision making;
- e) provide reasonable opportunity for competitive local businesses to supply to Council;
- f) minimise the cost to suppliers of participating in the tendering process;
- g) allow Council to appropriately manage risk;
- h) promote Council's economic, social and environmental plans and policies.

2. SCOPE

2.1 POLICY VS. PROCEDURES

The Code essentially provides a high level overview of Tender and Contract requirements as they apply to Council. Although some procedural detail associated with Council tender and contract management systems and processes is included in this document, additional lower level detail is held in Council procedure documents.

Consistent with the requirements specified in regulation 28, Council will establish and maintain local level procedures to:

- a) ensure all potential service 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;
- b) that fair and equitable consideration is given to all tenders or quotations received;
- c) deal honestly with and be equitable in the treatment of all potential service providers ;
- d) ensure a prompt and courteous response to all reasonable requests for advice and information from potential or existing service providers;
- e) protect commercial in confidence information; and
- f) review each tender process to ensure that each tender is in accordance with the Regulations and this Code.



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Council will also establish and maintain procedures for:

- a) amending or extending a tender once it has been released;
- b) opening tenders;
- c) the consideration of tenders that do not fully conform with the tender requirements;
- d) handling complaints regarding processes related to the supply of goods or services.

Refer to Appendix A for Northern Midlands Council local level procedures for tendering.

2.2 EMPLOYEES AND SERVICE PROVIDERS

The Code will apply to Council, council employees and agents and any service provider wishing to compete for Council business or provide goods, services or works to Council (including contractors, subcontractors, consultants and suppliers)

Wherever reasonably possible service providers engaged by Council will also apply the Code when seeking Tenders or Quotations from subcontractors and suppliers.

3. PROCUREMENT PRINCIPLES

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

3.1 OPEN AND EFFECTIVE COMPETITION

The Council will ensure that the purchasing process is impartial, open and encourages competitive offers.

In practice this means that Council will:

- a) use transparent and open purchasing processes so that service providers and the public are able to have confidence in the outcomes;
- b) adequately test the market through seeking quotations or via tender as appropriate;
- c) avoid biased specifications;
- d) treat all service providers consistently and equitably;
- e) ensure a prompt and courteous response to all reasonable requests for advice and information from service providers.

3.2 VALUE FOR MONEY

The Council will ensure that it is buying at the most competitive price available, but value for money does not mean buying at the lowest price.

In practice this means that Council will consider

- a) the contribution the good or service makes to achieving Council's strategic plans or policies;
- b) the value of the acquisition and potential benefits against the costs of that purchase;
- c) an assessment of risks associated with the purchase including the preferred procurement method;
- d) how well goods or services meet needs;
- e) maintenance and running costs over the lifetime of a product;
- f) disposal value;
- g) time constraints;
- h) the impact of the procurement decision on the local economy, such as through industry development and employment creation;
- i) the impact of the procurement decision on the environment, such as through minimising waste and reducing demand for goods and services which have a direct impact on the environment (such as printing, utilities and travel); and



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- j) the impact of the procurement decision on the society, (social value generated) such as through the elimination of discrimination and the promotion of equal opportunity, training, and other identified social objectives.

3.3 ENHANCEMENT OF THE CAPABILITIES OF THE LOCAL BUSINESS INDUSTRY

The Council will ensure that where local capacity exists it will seek to engage the local market and encourage participation in tender and quotation processes.

In practice this means that Council will:

- a) actively seek quotes from local businesses that are able to provide quality goods and or services;
- b) where local capability exists, ensure that discretionary elements of specifications do not prevent local business from competing; and
- c) not give preferential treatment to local service providers where it cannot be reasonably justified.

3.4 ETHICAL BEHAVIOUR AND FAIR DEALING

The Council will promote procurement practice that is legal, ethical, fair and unbiased

In practice this means that Council will:

- a) comply with legal requirements;
- b) conduct all business in the best interests of the Council;
- c) be as effective and efficient as possible when sourcing, ordering and paying for goods and services;
- d) expect individuals involved in procurement processes to declare and act upon any conflicts of interest that may be seen to influence impartiality;
- e) ensure that specifications are clear;
- f) ensure that any Service Provider is not provided with information or clarification that is not provided equally to all service providers;
- g) maintain confidentiality at all times in dealing with service providers;
- h) ensure that conditions of contract are not excessively onerous; and
- i) decline gifts or benefits offered by those involved in the procurement process, particularly from service providers.

In practice this means that Council expects service providers to:

- a) ensure that they are well acquainted with Council requirements identified in this Code;
- b) are familiar with particulars relating to a specific tender and quotation processes including the relevant specifications;
- c) not submit a tender or quotation unless they have the financial, technical, physical, management resource or other capabilities to fulfil Council's requirements;
- d) not seek to influence a procurement process by improper means or collude with other service providers;
- e) declare and act upon any conflicts of interest that may be seen to influence impartiality;
- f) comply with all applicable legislative, regulatory and statutory requirements, including Acts of the Commonwealth and State, regulations, by laws and proclamations made or issued under such Acts and lawful requirements or directions of public and other authorities;
- g) not offer gifts or benefits to a Council officer for the discharge of official business;
- h) Northern Midlands Council local level procedures for tendering are identified at Appendix A of this Code of Conduct.



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4. PROCUREMENT METHODS

While open and fair competition may often best achieved by undertaking a tender process where all interested parties have an opportunity to bid, there are times when this practice will not deliver the most advantageous outcome for the Council. In such instances, other market approaches may be more appropriate.

The Council will, having regard to the procurement principles and any other factors considered relevant by the Council, in its absolute discretion, determine the appropriate method that will be employed to procure goods and services at any particular time.

An annual purchasing order may be issued for ongoing monthly services (such as electricity, insurance, telecommunications, water & sewer, government levies etc).

Each Council employee has an authorised limit as to procurement expenditure. These limits are reviewed from time to time.

The following table summarises the purchasing method utilised by Council based on the total dollar value of the purchase:

Procurement Value	Minimum Requirement
Under \$1,000	Council purchasing order to be used wherever possible. Payment to be made by petty cash, credit card or cheque.
\$1,001 to \$5,000	Verbal quotation required. Council purchasing order required. Payment to be made by credit card, cheque or electronic funds transfer.
\$5,001 to \$20,000	2 written quotations is required. Council Purchase order is required. Payment to be made by credit card, cheque or electronic funds transfer.
Between \$20,001 and \$249,999	Written quotations Where possible, at least three written quotations will be obtained, of which at least one will be sought from a local business (if available). Council Purchasing order is required. Payment to be made by cheque or electronic funds transfer.
\$250,000 and greater	Public Tender Council will advertise each tender at a minimum in the Examiner 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, i.e. within the municipal area, if available. Payment to be made by cheque or electronic funds transfer

Note:

All amounts are exclusive of GST.

The prescribed amount pursuant to the Local Government (General) Regulations 2015 is \$250,000.

4.1 NON TENDER – PROCESSES FOR ACQUISITION OF GOODS AND OR SERVICES

4.1.1 DIRECT PURCHASING

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

This method will be used only for low value, low risk goods and services where the Service Provider already has a successful history with the Council.

4.1.2 PURCHASE ORDERS

Purchase Orders usually have limited terms and conditions and detail specific items that are to be purchased.



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This method may be used for low value, low risk goods and services and will not be used for non routine, high value and high risk goods and services.

An example of a good that may be purchased via purchase order is a new TV. An example of a service that may be purchased via purchase order is design work for a new sign.

4.1.3 QUOTATIONS (INFORMAL)

This is where Council will only enter into a contract where 2 quotations from suitable service providers able to provide the goods or services have been sought.

Records must be kept of quotations received and quotations approved. If written quotations cannot be obtained Council must keep detailed written records of the oral quotation obtained including details of the commercial terms of the quotation.

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

4.1.4 REQUEST FOR QUOTATIONS (RFQ)

This is a more formal quotation process. Council will enter into a contract where 3 written (including email) quotations from suitable service providers able to provide the goods and or services have been sought. Where less than 3 suitable service providers are reasonably available, records outlining this circumstance will be kept.

Council must keep detailed written records of the quotations obtained including details of the commercial terms of the quotation.

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

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 justified under the Regulations. See section 8 - Exemptions.

An example of a service that may be purchased via RFQ's is engaging a contractor to conduct road works.

4.2 TENDER - PROCESSES FOR ACQUISITION OF GOODS AND OR SERVICES

The Act and Regulations require that Council invite Tenders for any Contract it intends to enter into for the supply or provision of goods or services valued at or above a prescribed amount. The prescribed amount is \$250,000 (GST exclusive).

4.2.1 OPEN TENDERS

An open tender process is an invitation to tender by public advertisement. There are generally no restrictions regarding who can submit a tender, however, service providers are required to submit all required information and will be evaluated against stated selection criteria.

General Manager - responsibilities

Consistent with the Regulations (Regulation 24) Council will ensure that when open tenders are used as a method of procurement; the General Manager will invite tenders.

The General Manager will advertise the tender locally via the daily newspaper circulating in the municipal area and on via Councils website – making the tender available to all qualified and interested bidders.

The public notice will identify:



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- a) clearly the nature of the goods and or services the Council requires;
- b) the period within which the tender must be lodged (must be at least 14 days after the date on which the notice is published);
- c) where the tender must be lodged; and
- d) details of a person from whom more detailed information relating to the tender may be obtained.

The General Manager will ensure that prospective tenderers are provided with details regarding:

- a) the specifications of the goods and or services required;
- b) the duration of the contract, including any extensions that are specified in the contract;
- c) any mandatory tender specifications and contract conditions;
- d) objective criteria for evaluating the contract; and
- e) must make reference to the Council Code for Tenders and Contracts.

Service Provider – responsibilities

A person submitting a response in relation to a Council public tender must do so in writing.

The Service Provider must specify the goods and or services tendered for, provide details of the goods and or services being offered and must lodge the tender within the period specified in the public notice.

Refer to Appendix A for Northern Midlands Council procedures relating to tender process.

4.2.2 *MULTI STAGED TENDER*

There are occasions – although usually limited (because the process can be resource intensive), where Council may use a multi stage tender process. Reference is made to this process in the Regulations at Regulation 26.

This tender method will be used by Council to gain knowledge about the market, obtain industry input – where it is unclear what goods and services are available or to shortlist appropriate suppliers before seeking offers.

At each stage in this process, service providers may be culled to those who are most suited to the specific contract requirements. Service providers will be evaluated against criteria determined by Council.

Once a short list of potential service providers is developed, these service providers may be invited to participate in an open tender process.

General Manager - responsibilities

As a first stage in this process, the General Manager will request – expressions of interest from prospective tenderers.

The General Manager will advertise the expression of interest locally via the daily newspaper circulating in the municipal area and via Councils website.

The public notice will identify:

- a) clearly the nature of the goods and or services the Council requires;
- b) contract identification details;
- c) the period within which the expression of interest must be lodged;
- d) where the expression of interest must be lodged; and
- e) details of a person from whom more detailed information relating to the expression of interest may be obtained.

The General Manager will ensure that prospective tenderers are provided with details regarding:

- a) the specifications of the goods and or services required;



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- b) objective criteria for evaluating the expression of interest;
- c) the method of evaluating expressions of interest against the criteria;
- d) details of any further stages in the tender process; and
- e) must make reference to the Council Code for Tenders and Contracts.

At the final stage of a Multi Staged Tender process, the General Manager will invite all service providers who have met the criteria determined by the Council, to tender for the supply of goods and or services

If only one service provider meets the criteria determined by Council, the Council may contract with that supplier after:

- a) a tender from that Service Provider; or
- b) a decision by the absolute majority of the council to do so.

Service Provider – responsibilities

A person submitting a response in relation to a Council expression of interest must do so in writing.

The service provider must specify the goods and or services the expression of interest relates to, provide details of the goods and or services being offered and must lodge the expression of interest within the period specified in the public notice.

Refer to Appendix A for Northern Midlands Council procedures for tenders.

4.3 ONGOING SUPPLY ARRANGEMENTS - GOODS AND SERVICES

4.3.1 STANDING CONTRACT

A Council, through an open tender process, may establish a standing contract in which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process. Reference is made to this process in the Regulations at Regulation 23.

Service providers listed on a standing contract panel will be selected following an evaluation process.

Council may legitimately purchase directly from a service provider listed on a standing contract panel.

Council may implement its own standing contract arrangements or may make use of goods and or services panels that have been negotiated for example for Tasmanian Councils via LGAT as a member of the National Procurement Network or via similar arrangements through State Government.

The way in which a standing tender is established is the same 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.

4.3.2 MULTIPLE USE REGISTER

A multiple use register is a list, intended for use in more than one procurement process, of pre qualified providers, who have satisfied the conditions for participation or inclusion on the register. Reference is made to the multi use register process in the Regulations at Regulation 25.

Council may establish a multi use register of service providers who meet criteria established by the Council in respect to the supply of particular categories of goods and services.

Inclusion on a multi use register provides certainty for potential service providers that they have been recognised as meeting conditions for participation.

Council will invite tenders for a contract for the supply of goods and or services from all service providers included on a multiple use register for a particular category of goods and or services.



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General Manager - responsibilities

As per Regulation 25, Council will establish and maintain procedures for the use of multiple use registers for contracts valued at under the current prescribed amount, excluding GST.

Essential procedural requirements include that, the Council will invite applications from service providers for inclusion on a multiple use register by advertising locally via the daily newspaper circulating in the municipal area and via Councils website.

The public notice will identify:

- a) the nature of the goods and or services the Council requires;
- b) any identification details associated with the register;
- c) the period within which the application must be lodged;
- d) where the application must be lodged; and
- e) details of a person from whom more detailed information relating to the multiple use register may be obtained.

The General Manager will ensure that applicants are provided with information regarding:

- a) the specifications of the goods and or services required;
- b) the criteria for evaluating the applications;
- c) the method of evaluating applications against the criteria; and
- d) must make reference to the Council Code for Tenders and Contracts.

Council may accept an application for inclusion on the multiple use register or reject an application.

If Council rejects the application, the General Manager will advise the applicant of the reasons for rejection.

If Council accepts the application the General Manager will advise the applicant of the category their application will be included in on the multiple use register.

The multiple use register will be reviewed by Council at least every 2 years.

Council will allow a service provider to apply for inclusion on the multiple use register at any time unless the service provider has made an application in the previous 12 months and the application has not been accepted.

Refer to Appendix B for Northern Midlands Council local level procedures for multiple use registers.

4.3.3 STRATEGIC ALLIANCES

Council may choose to procure goods and or services through contract arrangements already established and administered by other organisations, including:

- a) LGAT through the National Procurement Network;
- b) State Government Contracts; and
- c) any other purchasing group of which Council is a member.

5. CALCULATING THE VALUE OF A PURCHASE

5.1 PRICE

The dollar value of the purchase may be calculated as follows:

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



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As per Regulation 23, Council will not split a single procurement activity into 2 or more separate contracts for the primary purpose of avoiding the requirement to publicly invite tenders.

5.2 NON PRICE CONSIDERATIONS

Council will ensure that it is buying at the most competitive price available, but quantifying the value of a purchase does not simply mean buying at the lowest price. Specific issues that will be taken into account by Council that relate to non price related matters are identified in the Principles section at 5.2.

6. GOODS AND SERVICES TAX (GST)

All procurement thresholds are GST exclusive

Tenders and quotations must be sought on a GST exclusive basis.

7. EXTENSION OF CONTRACTS ENTERED INTO

Consistent with Regulation 23, Council may extend a contract entered into:

- a) as specified in the contract or
- b) if the contract does not specify extensions, by an absolute majority.

8. EXEMPTIONS

The Regulations identify circumstances where Council is not required to issue a public tender process.

The exemption circumstances identified in Regulation 27 – Non application of the public tender process are:

- a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
- b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or the Local Government Association of Tasmania;
- d) a contract for goods or services obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania or any other local government association in this State or in another State or a Territory;
- e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- f) a contract for goods or services that is entered into at public auction;
- g) a contract for insurance entered into through a broker;
- h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;
- i) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of–
 - i) extenuating circumstances; or
 - ii) the remoteness of the locality; or
 - iii) the unavailability of competitive or reliable tenderers;
- j) a contract of employment with a person as an employee of the council.

General Manager - responsibilities

The General Manager will authorise non use of the public tender process in accordance with the exemption directions identified above.



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9. ENGAGING A THIRD PARTY TO MANAGE A PROCUREMENT PROCESS

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

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

10. REPORTING PROCEDURES

Council is obliged to report at a minimum on a series of procurement matters.

10.1 PROCUREMENT AT OR ABOVE THE PRESCRIBED AMOUNT

As per Regulation 29, Council will report in its Annual Report details of any contract for the supply or provision of goods and or services valued at or above the currently legislated prescribed amount of \$250,000.

As per Regulation 29, Council will report in its Annual Report details of any contract for the supply or provision of goods and or services valued at or above \$100,000, but below the prescribed amount of \$250,000.

Council may also at its absolute discretion report detail of instances of procurement below \$100,000.

Detail that will be reported for 10.1 at a minimum as required under the Regulations is:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded, or if a tender was not required, the value of the contract excluding GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

10.2 CONTRACT EXTENSION

As per Regulation 23, Council will report in its Annual Report, the details of any extension of a contract, where Council agreed to extend a contract by an absolute majority and the pre existing contract did not specify extensions.

Detail that will be reported for 10.2 at a minimum as required under the Regulations is:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded, or if a tender was not required, the value of the contract excluding GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

10.3 EMERGENCY PROVISION

As per Regulation 27 Council will report in its Annual Report, the details of all instances where non application of the public tender process has been applied as a result of an emergency, where in the opinion of the General Manager, there was insufficient time to invite tenders for the goods and services required in that emergency.

Detail that will be reported for 10.3 at a minimum as required under the Regulations is:

- a) a brief description of the reason for not inviting public tenders;
- b) a description of the goods or services acquired;
- c) the value of the goods or services acquired; and
- d) the name of the supplier.



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10.4 OTHER CIRCUMSTANCES

As per Regulation 27 Council will report in its Annual Report, the details of all instances where non application of the public tender process has been applied because Council agreed by absolute majority, that a satisfactory result would not have been achieved if tenders were invited because of

- i) extenuating circumstances;
- ii) the remoteness of the locality;
- iii) the unavailability of competitive or reliable tenderers; and

Detail that will be reported for 10.3 and 10.4 at a minimum as required under the Regulations is:

- a) a description of the reason for not inviting public tenders;
- b) a description of the goods and or services acquired;
- c) the value of the goods and or services acquired; and
- d) the name of the supplier.

In addition to ensuring the above reporting occurs, as per Regulation 28(j), the General Manager will establish and maintain procedures for reporting to Council circumstances where a public tender or quotation process was not used and reasonably should have been.

Refer to Appendix C for Northern Midlands Council reporting procedures.

11. WORK HEALTH AND SAFETY

All tenderers are to comply with the Northern Midlands Council Work Health & Safety Policy, a copy of which is to be supplied to tenderers with the tender documentation.

All contractors engaged by the Council are required to complete an induction with the Council and provide copies of appropriate insurances, Safe Work Methods Statements and a list of training and competencies.

12. DELEGATION

Northern Midlands Council delegations can be found on its website

<https://www.northernmidlands.tas.gov.au/council/publications/council-policies-and-by-laws>

13. COMPLAINTS

The Council will deal promptly with any complaints about its tendering process. Each complaint will be recorded in writing and the complainant given an opportunity to discuss his or her complaint with the General Manager or a delegated senior officer.

14. REVIEW OF THE CODE

Consistent with the requirements identified in Section 333B of the Act, Council will formally review this Code at least every 4 years.

The Code may be modified on an as needs basis from time to time by Council to reflect changed operational requirements.

15. BREACH OF THE CODE

Council will take all reasonable steps to comply with this Code.

Council will not be liable in any way to a Service Provider or any person for a breach of this Code.

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



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If a Service Provider commits a breach of this Code, Council may, in its absolute discretion, take action against that Service Provider.

16. ACCOUNTABILITY

Consistent with Section 333B of the Act, as a measure of accountability and transparency, the General Manger will:

- a) make a copy of this Code and any amendments, available for public inspection at the Council's offices during ordinary office hours;
- b) make copies of this Code available for purchase at reasonable charge; and
- c) publish a copy of the Code on the Council's internet site – free of charge.

17. CONFIDENTIALITY

Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.



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APPENDIX A

TENDERING PROCESS

1. SPECIFICATIONS

Council will develop specifications for tenderers, clearly setting out Council's expectations. Most specifications will focus on outcomes and quality requirements, rather than particular ways of delivering a service. Some specifications may include both input and output requirements for a service.

The tender documents will require tender proposals to indicate how the performance standards will be met, and how the tenderer would measure the satisfaction levels of service users.

The tender documents will require the tenderers compliance with Council's Work Health & Safety Policy, as well as any other applicable Council Policies, Codes of Conduct, legislation or Australian Standards.

In developing specifications, the Council will consider the requirements of service users and may seek the views of the providers of the existing service and others providing similar services, whether in the public or private sector.

The Council will identify in the specifications any Council assets to be made available to tenderers, whether in-house or external, and may set costs, terms and conditions for the use of the assets.

No potential tenderer, in-house or external, will have access to the final specifications prior to their formal approval and public release by the Council.

2. ADVERTISING

Public notice is required under the Act to start a tender process. The Council will advertise in the Public Notice Section of the Saturday edition of the Examiner Newspaper and may advertise in other newspapers or publications where appropriate. The Council will also place information on the tender on its website.

When advertising the Council will specify:

- 1) The nature of the goods or services required;
 - 2) Any identification details allocated to the contract;
 - 3) Where the tender is to be lodged;
 - 4) Particulars identifying a person from whom further or detailed information relating to the tender can be obtained;
- and
- 5) The period within which the tender is to be lodged.

3. VARIATIONS TO A TENDER

Where the Council seeks to amend or extend the closing date for a tender it will advertise the variation/s in the Examiner newspaper and on its website. If tender documents have been issued or a written tender has already been received then the General Manager will notify the recipients of the tender documentation and any tenderer in writing of the variation/s to the tender.

4. EXPRESSION OF INTEREST

The Council may use an "expression of interest" process before it invites tenders. If so, it will advertise publicly the purpose and nature of the contract or project and the date by which it will invite tenders. The aim at the expression of interest stage is not to elicit tenders, but rather to assess the capacity of the respondents to undertake the work or project, and to refine the specifications. The Council will make the evaluation criteria for registration available to all respondents.



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The Council will seek tenders from local business and industry if available.

The Council may invite tenders from some, all or none of the registrants, by the advertised date. If the Council does not invite tenders by that date, it will write to all registrants advising when tenders are to be invited. Respondents who are not invited to tender will be advised in writing. The Council will use this list of registrants to invite tenders for the advertised contract or project only.

5. INVITATION TO TENDER

The Council will offer the same tender documents to all those who respond to an invitation to tender. A copy of this Code will be attached to all tender documents.

The Council may impose a fee for tender documentation related to the cost of printing the tender documentation. The Council will not impose any additional fee for tender documentation unless it refunds the fee to each tenderer who submits a conforming tender.

The Council will not request a tender deposit. In all cases the Council will seek to minimise the cost to suppliers of participating in the tender process.

The tender documents will include the tender evaluation criteria and identify the order of importance accorded to the criteria.

In addition, the Council will ensure that prospective tenderers are provided with all relevant information, including:

- 1) Details of the goods or services required;
- 2) Details of the duration of the contract, including extensions;
- 3) The criteria for evaluating tenders;
- 4) The method of evaluating tenders against the evaluation criteria;
- 4) Any mandatory tender specifications and contract conditions; and
- 5) A reference to the Council's code of tendering.

If the Council gives advice, written or verbal, to a respondent clarifying the meaning of the tender documentation, it will give the same information to all other respondents in writing. The Council will keep a written record of any other verbal advice. The Council will respect the confidentiality of a respondent who discloses information which has commercial or intellectual property value. The Council will consider conducting a pre-tender briefing and may determine not to give additional information apart from the briefing.

Tenderers will generally be given a minimum of 21 days from the date on which tenders were invited in which to submit tenders. All tenders must be in writing. The submission period is determined by the nature of the tender and the Council will advise respondents in writing when it invites tenders if a longer or shorter submission period is to apply.

LATE TENDERS WILL NOT BE ACCEPTED.

Any proposal that does not conform to the tender conditions may be rejected as non-conforming. The General Manager will notify any tenderer of the rejection and the reasons for the rejection.

The Council will acknowledge receipt of all tenders in writing.

6. IN-HOUSE TENDERS

As an employer, the Council will assist its staff to become more competitive. At the same time, the Council is aware that competition must be fair, and be seen to be fair, to all parties.

Accordingly, the Council will treat an in-house tenderer on the same terms as an external tenderer. The Council will ensure there is a clear separation between the in-house tenderers and those who have responsibility for evaluating the tenders.



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In-house tenders will be prepared on the basis that all direct costs and indirect or overhead costs attributable to the tender are included.

In allocating overhead costs to in-house tenders, a Council will only exclude those costs which it would continue to incur even if all its services were contracted out. The excluded overhead costs are limited to:

- 1) *governance costs*: conduct of elections; administrative support for Councillors; Council meetings; making and enforcing local laws; property valuations; making and levying rates and charges; other statutory duties not related to the tender;
- 2) *strategic management of services costs*: long term planning and supervision of all services, including tendering and contract administration costs;
- 3) *core corporate costs*: administrative support for the governance and strategic management of services functions.

7. TENDER EVALUATION

Council officers will evaluate tenders according to the tender evaluation criteria outlined in the tender documentation, the requirements of the *Local Government (General) Regulations 2015* and the Northern Midlands Council Code of Tendering and Procurement.

Council officers will provide a written tender evaluation report to Council on its reasoning behind awarding/recommending a particular tender.

All tenders, quotations or any form of competitive bidding be treated in confidence and considered by Council 'In Committee'.

8. AWARD OF CONTRACT

The Council may negotiate with tenderers to determine the award of the contract but must have regard to the scope of the invitation to tender at all times. The Council will not trade the price of one tenderer against that of another tenderer. The Council will exhaust negotiations with one tenderer before beginning negotiations with another tenderer.

The decision to award a contract will be made by the Council or its delegated officer. If there is an in-house tender, the written report on the award of the contract prepared by the tender evaluation panel will be presented to an open meeting of the Council. The Council will award the contract on the basis of the best quality and value for money for the community.

The Council will have regard to the written tender evaluation report and may also have regard to other factors impacting on the best quality and value for money outcome.

The Council will promptly notify the successful tenderer by telephone and in writing, and unsuccessful tenderers will be notified in writing. It will advise them of the reasons for the award of the contract.

Also see Minute No. 294/06 – Ownership of Intellectual Property – the following clause is to be incorporated into all Agreements and/or the Terms of Engagement of Consultants:

“The Consultant,, agrees with the Northern Midlands Council to grant to the Council an irrevocable licence to use and to reproduce any reports, recommendations or associated material (including photographs, charts and electronic data) for purposes related to the engagement of the consultant without the payment of any fee. The Council acknowledges that when it does reproduce any of the material produced by the consultant it will, in so doing, recognise the consultant as the copyright owner.”

9. NOTIFICATION OF UNSUCCESSFUL TENDERERS

Once the successful tenderer has been notified the Council will promptly advise the unsuccessful bidders in writing of:

- 1) The tender outcome; and
- 2) The successful contractor.



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Details of the tenders awarded will be displayed on the Council's public notice board and on Council's website for 14 days. All unsuccessful tenderers will be offered the opportunity of attending a debriefing session, and document the proceedings of the debriefing sessions.



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APPENDIX B

MULTIPLE USE REGISTERS

From time to time the Council may utilise a multiple-use register process to establish a register of suppliers that Council has determined satisfy the conditions for participation in that register, and that Council intends to use more than once.

If it is determined that a such register will be established, the General Manager will invite expressions of interest from prospective applicants for inclusion on a register by publishing at least once in the Examiner Newspaper and on its website a notice specifying:

- a) a description of the goods and services, or categories thereof, for which the register may be used;
- b) the name and address of the council and other information necessary to contract the entity and obtain all relevant documents relating to the register; and
- c) any deadlines for submission of application for inclusion on the register.

The General Manager will advise all prospective tenderers of the results of their application including all categories for which they are registered and the reasons for rejection of inclusion on the register as soon as practicable.

When Council wishes to use the register, the General Manager will invite all successful applicants that are registered for the relevant category to tender for the provision of the required good or service, and the tender process as outlined in this policy will be utilised.

Council will review any established register at least once every 2 years.



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APPENDIX C

REPORTING PROCEDURES

Council will publish in its Annual Report in relation to all contracts for the supply or provision of goods and services valued at or above \$100,000 (excluding GST), awarded or entered in the financial year, including extensions granted:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded or, if a tender was not required, the value of the contract ex. GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

Where an exemption has been granted from a tender process the following details will be reported in Council's Annual Report:

- a) a brief description of the reason for not inviting public tenders;
- b) a description of the goods or services acquired;
- c) the value of the goods or services acquired; and
- d) the name of the supplier.

The General Manager will provide Council with a quarterly report of any instance where a purchase of a good or service is made where a public tender or quotation process is not used where an exemption applies from the tender process.