

# Code for Tenders and Contracts



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# 1 INTRODUCTION

## 1.1 APPLICATION

This Code for Tenders and Contracts (Code) sets out the best practice tendering and procurement methods to align with Sections 333 A and B of the *Local Government Act 1993* (**the Act**) and the *Local Government Regulations 2025* (**Regulations**). The Act provides that a council must adopt a code relating to tenders and contracts and requires that the code must:

- Be Consistent with the Act;
- Include any prescribed matter;
- Promote any prescribed principles; and
- Be reviewed at least once every four years.

The Act also provides that a council must comply with its code.

The Regulations require this Code to promote the following principles:

- Open and effective competition;
- Value for money;
- Enhancement of the capabilities of local business and industry; and
- Ethical behaviour and fair dealing.

## 1.2 DEFINITIONS

- **Act:** the *Local Government Act 1993*.
- **Alternative Tender:** A tender which satisfies the Council's required outcome, but by an alternative method to that specified.
- **Code:** this Code for Tenders and Contracts.
- **Consultant:** a person or organisation engaged under a contract to provide recommendations or specialist advice to the Council.
- **Contractor:** a person or organisation engaged under a contract to provide specified goods or services to the Council.
- **Contract:** a contract is a legally enforceable obligation between competent parties, upon a legal consideration, to do, or abstain from doing, some act.
- **Council:** the West Tamar Council.
- **Expression of Interest (Eoi):** A method used to pre-qualify potential tenderers for a project in order to reduce the overall tendering and evaluation costs by restricting the issue of formal tenders.
- **Local Business:** any business operating in the northern region of Tasmania and preferably having a permanent office or presence in the Municipal Area.
- **Multiple Use Register:** a register of suppliers which have pre-qualified to supply a particular category of goods or services.
- **Multi-Stage Tender:** a tender process used only for large or complex projects to pre-qualify potential tenderers.
- **National Procurement Network (NPN):** an alliance of procurement bodies owned by the Local Government Associations of Queensland, New South

Wales, Victoria, Northern Territory, South Australia, Western Australia and Tasmania.

- **Pre-Tender Meeting:** a meeting held to explain requirements and answer questions relating to the contract.
- **Procurement:** the overall process used by Council to obtain goods or services from external suppliers.
- **Public Tender:** a tender where invitation to tenders is advertised to the public. This includes an open tender, a tender based on a multi-use register, and a multiple stage tender.
- **Purchase Order:** the official document issued by the Council to a supplier which demonstrates the Council's contractual commitment to the procurement of goods and services.
- **Regulations:** the *Local Government (General) Regulations 2025*.
- **Requested Tender:** a tender where the invitation to tender is sent only to businesses capable of providing a specified work, good or service.
- **Tender:** a submission, proposal, quotation, price or offer that is submitted in response to a request for tender. This includes a public tender and a requested tender.
- **Tender Box:** a box or cabinet used as the point of lodgement for tenders.
- **Tender Evaluation Committee:** a committee established by Council to evaluate the tender submissions for a specific project.
- **TenderLink:** a privately operated online procurement gateway providing for the advertisement and management of tenders and other procurement processes.
- **Valued At:** for the purposes of this Code a project is valued at the price indicated in a documented estimate using a detailed list of quantities and relevant, recent commercial rates.

### 1.3 PRINCIPLES

This Code is based on the following principles:

- Value for money;
- Open and effective competition;
- Ethical behaviour by all parties;
- Efficient, effective and ethical use of resources;
- Honesty and fairness;
- Compliance with all legal obligations and council policies;
- Reasonable opportunity for competitive local businesses;
- The best interests of the West Tamar Council;
- Recognition of the costs involved in inviting tenders and preparing tenders;
- Clarity and uniformity of documentation for any tender;
- Ready access to tender information and advice;
- Equal opportunity for all prospective tenderers;
- Confidentiality for all commercially sensitive information;
- Probity, accountability and transparency in decision making.

## **1.4 INVITING PUBLIC TENDERS**

Section 333A of the *Local Government Act 1993* provides that a council must invite tenders for any contract it intends to enter for the supply or provision of goods and services valued at or above the prescribed amount. The Act also requires that tenders must be invited and made in a prescribed manner.

Regulation 24(1) of the *Local Government (General) Regulations 2025* requires that a council must publicly invite tenders for any contract it intends to enter for the supply and provision of goods or services valued at or above \$250 000, excluding GST. Tenders must be invited by one of the following methods:

- An open tender;
- A multiple use tender;
- A multiple stage tender.

## **1.5 REQUESTED TENDERS**

Where the value of goods or services to be supplied or provided exceeds \$15 000 but is estimated to be less than \$250 000 Council will generally not invite public tenders but will invite the written submission of requested tenders from selected suppliers based on the supplier's experience, resources, and/or expertise. The appropriate departmental Director may determine that public tenders be invited for goods or services valued at less than \$250 000 in preference to inviting requested tenders.

Council may choose to enter into an agreement through the NPN or other similar organisations to purchase goods and services using processes established and agreed by that group.

## **1.6 EXEMPTION FROM PUBLIC TENDERS**

Regulation 28(1) of the *Local Government (General) Regulations 2025* provides that the public tender process does not apply to the following:

- An emergency if, in the opinion of the Chief Executive Officer (CEO), there is insufficient time to invite tenders for the goods or services required in that emergency;
- A contract for goods and services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- 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;
- A contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- A contract for goods or services that is entered into at a public auction.
- A contract for insurance entered through a broker;
- A contract arising when a council is directed to acquire good or services due to a claim made under a contract of insurance;

- 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:
  - extenuating circumstances; or
  - the remoteness of the locality; or
  - the unavailability of competitive or reliable tenderers.
- A contract of employment with a person as an employee of the Council.

## **1.7 REQUIREMENTS OF TENDERERS**

Individuals and organisations involved in providing quotations or tenders to Council are required to act in accordance with the following requirements:

- Operate honestly and fairly in all dealings;
- Only submit tenders or quotes if there is a firm intention to undertake the work or service;
- Avoid any practices which provide an improper advantage to any party;
- Not canvass or lobby any Councillor or employee of Council in relation to a tender or quote;
- Not engage in unfair, cooperative or collusive tendering;
- Not withdraw a tender without agreement;
- Promptly provide all additional information requested by council to clarify a tender;
- Hold all required qualifications and have access to appropriately trained personnel;
- Hold all required insurance policies.

## **2 PROJECT INITIATION**

### **2.1 PROJECT APPROVAL**

Projects may be initiated by the approval of project funds by Council in annual operational or capital works budgets, at the specific request of Council, or by direction of the Chief Executive Officer (CEO). Departmental Directors shall allocate responsibility for the management of individual projects.

Where projects are required to have statutory approvals the Council will endeavour, wherever possible, to obtain all the necessary permits prior to inviting tenders or requesting quotations. Such permits may include:

- Development;
- Building;
- Plumbing;
- Road opening;
- Demolition.

### **2.2 CONTRACT NUMBER**

Every project with a value exceeding \$75 000 shall have a unique contract number regardless of whether it is the subject of a public tender or a requested tender. Projects with a value of less than \$75 000 may have a contract number if determined to be warranted by the relevant departmental Director. The responsible officer for each project shall at the outset of planning for the project obtain the unique contract number from Council's information management system. That unique number shall be used on all documents relevant to that project. All documents relating to the project shall be linked to that contract number in Council's information management system.

### **2.3 CONTRACT REQUIREMENTS**

#### **2.3.1 STANDARD GENERAL CONDITIONS OF CONTRACT**

Where possible the standard general conditions of contract for public tenders shall be the applicable Australian Standard document. The following standards may be applicable:

- For major construction and building contracts:
  - *AS 4000 General Conditions of Contract* or
  - *AS 2124-1992 General Conditions of Contract*
- For major design and construct projects:
  - *AS 4902 General Conditions of Contract for Design and Construct Contracts*
- For construction projects of a simple nature, generally where the value does not exceed \$250 000:
  - *AS 4906 Minor works Contract Conditions (Principal Administered)*
- For major service provision contracts or asset maintenance services:

- AS 4920 General Conditions of Contract for the Provision of Asset Maintenance and Services (Principal's version)
- For minor service provision contracts or asset maintenance services:
  - AS 4921 General Conditions of Contract for the Provision of Asset Maintenance and Services (Short version)

### **2.3.2 PRICE ESCALATION**

For short term contracts there shall be no provision in the tender documents for variation of the tendered price or rates over the duration of the contract. For long term contracts, generally over twelve (12) months, the relevant departmental Director shall determine if the tender documents shall include a price escalation clause.

If a price escalation clause is to be included in a contract, then details shall be included in the tender documents. A price escalation clause shall be based upon changes in the Consumer Price Index (All Groups) for Hobart unless a standard index figure which is more relevant to the specific contract is available. Price adjustments due to changes in index figures shall not be calculated more frequently than quarterly.

### **2.3.3 INSURANCES**

All tender documents and requests for quotations shall include a requirement for the successful tenderer to hold the following insurances for the duration of the contract:

- Workers' compensation – covering all employees for Statutory Workers Compensation insurance and liability at common law;
- Public Liability – for a minimum of \$20 000 000 per occurrence;
- Motor Vehicles – as required by law for registered vehicles;
- Professional Indemnity (if relevant); and
- Contract works insurance (if relevant - when not already included as part of another blanket policy) – for the contract value plus 10%.

The documents shall require that evidence of the insurances be provided to Council on request and that the contractor maintain all insurances for the duration of the contract.

### **2.3.4 SECURITY**

Tender documents for all contracts for the provision of goods and services with an estimated value of more than \$250 000 shall include a provision for the contractor to provide security for the due and proper performance of the contract, unless specifically approved otherwise by the CEO. For service contracts the security shall be in the form of an unconditional guarantee from an approved financial institution. For specific project contracts the security required may be in the form of an unconditional guarantee from an approved financial institution, or by the retention of money by Council from progress payments for work completed. Security may be required for contracts with a value of \$250 000 and less if determined to be necessary by the relevant departmental Director.

Receipt of security guarantees must be recorded in Council's Electronic Records Management System (ERMS) and the original security documents forwarded to Finance for safekeeping.

### **2.3.5 DEFECTS LIABILITY**

The tender documents for specific project contracts with an estimated value of \$250 000 and above shall include a requirement for a defined defects liability period after the practical completion of the works or service, during which time the contractor shall be responsible for the rectification of defects in the works or services provided. The relevant departmental Director shall determine the length of the defect's liability period. For construction type contracts the period shall generally be 12 months. A defects liability period may be required for contracts with a value of \$250 000 and less if determined to be necessary by the relevant departmental Director.

### **3 TENDERING AND REGISTRATION PROCESS**

#### **3.1 INVITATION FOR PUBLIC TENDERS**

Council will invite public tenders through public advertisement or through the TenderLink website. Alternatively, a consultant may be engaged to manage a tender process for the purchase of specialised goods or services (e.g. the supply of electricity).

Invitations for public tenders through public advertisement shall be notified in The Examiner newspaper, in the "Tenders" or "Local Government Notices" columns, under Council logo and over the CEO's authorisation. Each tender notice shall be published at least once and where possible shall be placed in a Saturday edition of the newspaper. The notice shall include details of the tender closing time and date, the closing date for an open tender being at least 14 days after the date on which the notice is first published or any other period as stipulated by legislation.

Council will maintain a register detailing the names and contact details of any person collecting or being sent tender documentation.

Alternatively, invitations for public tender will be notified by uploading tender information to the TenderLink website (<https://www.tenderlink.com>). Tender information shall include details of the tender closing time and date, the closing date for an open tender being at least 14 days after the date on which the notice is first published or any other period as stipulated by legislation.

Whenever possible the tender closing time shall be 12 noon. Where practicable tenders shall not close on a Monday or on the day immediately following a public holiday.

#### **3.2 PUBLIC TENDERS**

The invitation to submit public tenders shall include the following details in accordance with the requirements of Regulation 25(1) of the *Local Government (General) Regulations 2025*:

- The nature of the goods or services required;
- Any identification details allocated to the contract;
- How and where the tender is to be lodged;
- The name of the person from whom more detailed information relating to the tender may be obtained;
- The period within which the tender is to be lodged; and
- The place where tender documents can be obtained.

#### **3.3 MULTIPLE USE REGISTER**

Council may establish a multi-use register of suppliers who meet criteria established by the Council in respect of the supply of particular categories of goods or services as permitted by Regulation 26 of the *Local Government (General) Regulations 2025*. An

invitation to suppliers for inclusion on a multiple use register shall be placed in the Examiner newspaper and shall include the following details:

- The nature of the goods or services required;
- Any identification details allocated to the register;
- How and where the application is to be lodged;
- The name of the person from whom more detailed information may be obtained;
- The period within which the application is to be lodged; and
- The place where registration documents can be obtained.

Council will invite tenders for a contract for the supply of goods or services from all suppliers included on its multiple use register for the particular category of goods or services required. The multiple use register is to be reviewed at least once every two years. Council will allow a supplier to apply for inclusion on its multiple use register at any time unless the supplier has made an application within the previous twelve months and that application has not been successful.

### **3.4 MULTI-STAGE TENDER**

Council may invite tenders for a contract for the supply of goods and services using a multi-stage tender process as detailed in Regulation 27 of the *Local Government (General) Regulations 2025*. A multi-stage tender process will only be used on a specific project basis, and only for large or complex projects, or where the required solution is not clear. A multi-stage tender process is a process by which suppliers are evaluated through stages against criteria determined by the Council. The tender process will be at least in two stages with the first stage involving the submission an expression of interest (EoI) from organisations which consider that they have the technical and financial expertise, experience and ability, and the management and financial resources to undertake the specified project.

At the first stage of a multi-stage tender process the CEO will invite EOIs by public notice in The Examiner newspaper or through notice on the TenderLink website. A notice shall include the following details:

- The nature of the goods or services required;
- Any identification details allocated to the contract;
- How and where the expression of interest is to be lodged;
- The name of the person from whom more detailed information may be obtained;
- The period within which the EOI is to be lodged; and
- The place where the first stage tender documents may be obtained.

Subsequent stages may include requests for proposals detailing the tenderer's anticipated design, methodology, or similar information. The final stage will involve inviting fully detailed tenders from only those suppliers who have been pre-qualified to be considered for the contract following the assessment of earlier stages.

### **3.5 REQUESTED TENDERS**

#### **3.5.1 PROJECTS FROM \$75 000 TO \$249 999**

Where the value of goods or services to be provided is from \$75 000 to \$249 999, excluding GST, Council will invite the submission of requested tenders in writing from at least three potential suppliers assessed as having the appropriate experience, resources, and/or expertise to provide the goods or services required. At least one quotation shall be sought from a local business where there is such a business that can provide the required goods or services. If three potential suppliers of the required goods or services cannot be reasonably identified the CEO may approve the request of tenders from a lesser number of potential suppliers.

Details of all quotations must be attached to the copy of the purchase order provided to Accounts Payable. This should be accompanied by a completed Procurement Declaration form where less than three quotes were received or where the lowest quotation was not accepted.

#### **3.5.2 PROJECTS FROM \$15 000 TO \$74 999**

Where the value of goods or services to be provided is from \$15 000 to \$74 999, excluding GST, Council will invite the submission of requested tenders in writing from at least two potential suppliers assessed as having the appropriate experience, resources, and/or expertise to provide the goods or services required. Where an appropriate local business is available at least one quotation shall be obtained from a local business.

Details of all quotations must be attached to the copy of the Council purchase order provided to Accounts Payable. This should be accompanied by a completed Procurement Declaration form where only one quote was received or where the lowest quotation was not accepted.

#### **3.5.3 PROJECTS FROM \$5 000 TO \$14 999**

Where the value of goods or services to be provided is from \$5 000 to \$14 999, excluding GST, Council will obtain a written quotation for provision of the goods or services unless they are subject to a standard market price list, in which case the goods may be purchased using a written Council purchase order or corporate credit card based on a verbal price provided by the supplier.

#### **3.5.4 PROJECTS LESS THAN \$5 000**

Where the value of goods or services to be provided is less than \$5 000, excluding GST, goods and services may be purchased using a written Council purchase order or corporate credit card based on a verbal price provided by the supplier.

A Council officer having the appropriate purchasing authority must authorise all purchase orders. All purchases by corporate credit card must be in accordance with Council's Corporate Credit Card Policy & Guidelines. When requesting quotations for goods or services the responsible Council officer shall always endeavour to utilise experienced suppliers and shall use his or her best endeavours to obtain the most advantageous deal for Council. This should include seeking competitive quotes from other suppliers where feasible to do so. Where additional quotes have been received

details should be attached to the copy of the purchase order provided to Accounts Payable.

### **3.6 ADDITIONAL INFORMATION**

The nominated responsible Council officer for each tender shall be available to answer enquiries regarding the tender documents. Tenderers may ask for clarification of the tender documents during the tender period and if an enquiry reveals a significant error, omission or ambiguity in the documents the Council may issue a notice to all tenderers to clarify the requirements of the tender. Notices to tenderers shall be sequentially numbered for each contract, shall contain a date of issue, shall detail the relevant contract number, and shall require tenderers to include in their tender a signed copy of the notice acknowledging its receipt. When a significant issue is identified within seven days of the notified closure date the Council may extend the tender period, by written notice to all tenderers, to ensure that all tenderers can adequately consider the relevant information.

### **3.7 PRE-TENDER MEETING**

A pre-tender meeting may be held not less than 5 working days prior to the closing of tenders, in order to provide clarification of the contract requirements for prospective tenderers. If a pre-tender meeting is held, minutes shall be recorded and distributed to all prospective tenderers as a notice to tenderers.

### **3.8 LODGEMENT OF TENDERS**

Unless authorised by prior arrangements public tenders and requested tenders must be lodged electronically and must be accompanied by all relevant information required by the tender documents including all fully completed forms and schedules. Tenders should be submitted as outlined within the invitation to tender.

All tenders must be clearly marked as tender documentation with the contract number and description of the works or services tendered for. Tenders submitted by email must be received in full prior to the closing time for tenders to be considered as valid tenders. It is the tenderer's responsibility to ensure that their tender is received by Council prior to the notified date and time for receipt of tenders.

Where a tender is based on any assumption or interpretation of the tender documents due to uncertainty by the tenderer, the tenderer must clearly state in the tender the basis of the tender.

Tenders physically delivered to Council offices without prior arrangement will not be considered.

### **3.9 ALTERNATIVE TENDERS**

Tenderers are permitted to submit alternative proposals for consideration by Council. However, the Council is not bound to consider such alternative tenders. A tenderer submitting an alternative proposal shall include a fully detailed description of the

alternative and shall state clearly the manner by which it varies from the requirements of the tender documents and the advantages to Council of the alternative proposal. A failure to provide the detailed information with the tender may result in the tender being excluded.

### **3.10 SECURITY OF TENDERS**

Council will take all reasonable steps to maintain the security and confidentiality of received tender information.

The receipt of emailed tenders including general tenderer contact information will be recorded in Council's daily inward mail register and securely stored in Council's ERMS until the tender closes. Security level restrictions will be applied to ensure information cannot be inappropriately accessed.

Once the tender is closed Council's Information Management officers will assign all submitted tender documentation to the responsible Council officer and members of the appointed tender opening panel.

Access to tenders submitted to the TenderLink website will not be available until the tender period has closed. Submitted tender information will only be accessed once the tender opening panel has convened as part of the tender opening process (refer section 3.10 below).

### **3.11 OPENING OF TENDERS**

Tenders shall be opened by a tender opening panel consisting of at least 2 Council officers as soon as possible after the tender closing time. Members of the tender opening panel will be appointed by the department Director when possible to do so.

Unless otherwise stipulated the opening of tenders shall not be open to the public. All members of the tender opening panel shall be present at the opening of tenders and at that time shall record details of the tenders received in the Tender Opening Register form. The Tender Opening Register form is to be returned to Information Management for recording and assigning.

Following the opening of the tenders all details shall remain confidential.

### **3.12 LATE TENDERS**

All tenders must be lodged within the time-period, or by the date specified in the request for tender. Any tender received after the specified closing time will not be considered.

## **4 INVITATION DOCUMENTS**

### **4.1 ALL TENDERS**

The tender documents made available to prospective tenderers for all tenders shall include the following:

- Details of the goods or services required;
- Time and location for the pre-tender meeting if required;
- Criteria for evaluating tenders;
- The method for evaluating tenders against the evaluation criteria;
- Any mandatory tender specifications and contract conditions; and
- A reference to Council's Code relating to tenders and contracts.

### **4.2 PUBLIC TENDERS**

The tender documents made available to prospective tenderers for public tenders shall include the following:

1. Council's conditions of tendering;
2. The general conditions of contract;
3. Special conditions of contract or principal's contract requirements (if required);
4. Contract period or duration;
5. A technical specification or project description detailing specific criteria for the works, goods or services to be undertaken or supplied;
6. Maps, drawings, charts or other documents to clearly articulate the details of the works, goods or services to be undertaken or supplied (if required);
7. Form of tender;
8. Schedules of rates, quantities or prices (if required);
9. Technical schedules (if required);
10. Council's Work Health and Safety Requirements of Contractors;
11. Project specific reports or studies (if available); and
12. Permits obtained by Council for the project (if required).

### **4.3 MULTIPLE USE REGISTER**

The documents made available to prospective applicants for inclusion on a multi-use register shall include the following:

- Details of the method to be used for calling up items on the register; and
- Information on the anticipated use of the register (e.g. frequency, amounts, duration, etc.).

### **4.4 MULTI-STAGE TENDER**

The documents made available to prospective tenderers for lodgement of an expression of interest for a multi-stage tender shall include the following:

- Criteria for evaluating expressions of interest;
- The method for evaluating expressions of interest against the criteria; and
- Details of anticipated further stages in the tender process.

#### **4.5 REQUESTED TENDERS (PROJECTS LESS THAN \$250 000)**

The documents made available to organisations invited to submit requested tenders for goods or services valued from \$75 000 to \$249 999 shall generally include the following:

- Any technical specification or project description necessary to detail specific criteria for the works, goods or services to be undertaken or supplied;
- A schedule of rates, quantities or prices (if required);
- Lodgement details including the time and date for the submission of the tender;
- The name of the person from whom more detailed information may be obtained;
- Council's Work Health and Safety Requirements of Contractors; and
- Permits obtained by Council for the project (if required).

Requests for quotations for goods valued at less than \$15 000 shall include specific details of the items required, the date or time for provision of the quote, and details of the responsible Council officer.

## **5 TENDER AND APPLICATION EVALUATION**

### **5.1 OPENING OF TENDERS**

Section 3.10 of this code details the requirements for the opening of tenders.

### **5.2 CONSIDERATION OF TENDERS**

Council will not necessarily accept the lowest priced tender or quote or accept any tender or quote for any goods or services. Council will endeavour to accept the tender that it considers to be the most advantageous for its community. Tenders that do not satisfy all statutory and legal requirements will be disqualified from consideration by Council. Any tender which does not address all the criteria required by the tender documents may be excluded.

### **5.3 TENDER EVALUATION**

Unless the Conditions of Tendering expressly state an alternative method, tender evaluation will be carried out in accordance with the principles and practices set out in this Code.

For works valued at less than \$250 000, tenders, quotes, or invited applications for any works or service shall be evaluated by the Council officer responsible for managing the project, or another person appointed by the Director. The evaluation may be undertaken by consultants for specialist projects or where the consultant has been engaged to assist with procurement.

For works valued at \$250 000 or more, tenders, quotes, or invited applications for any works or service shall be evaluated by a Tender Evaluation Committee as outlined in clause 5.3.2.

Tenders will be evaluated with the aim of determining the tender submission which offers the best value for money and most advantageous outcomes to the Council.

When assessing value for money, the Council may:

- in addition to price, consider any non-price criteria that it considers relevant to the successful performance of the Council's requirements and achievement of the Council's desired commercial and other outcomes; and
- apply a weighting to the price and non-price criteria.

The evaluation method and evaluation criteria must be determined before finalising the request for tender and must be disclosed to tenderers in the Conditions of Tendering. Evaluation method, criteria and weightings will apply equally to all tenderers.

#### **5.3.1 CONFORMING AND NON-CONFORMING TENDERS**

A tender will initially be assessed for conformance. A conforming tender will be taken to mean a tender which:

- is lodged by the closing time and in compliance with the requirements of the Conditions of Tendering; and
- meets the mandatory Conditions of Participation.

The Council will consider any conforming tender on its merits. The Council may reject, as a nonconforming tender, any tender which:

- is not submitted in conformance with the Conditions of Tendering; and

- is incomplete or which contains insufficient information to allow the Council to carry out a valid evaluation in accordance with the procedure for evaluating tenders set out in this Code.

### **5.3.2 TENDER EVALUATION COMMITTEE**

A Tender Evaluation Committee (TEC) will be established to assess tender submissions for the provision of goods or services valued at \$250 000 or higher. The TEC will consist of at least four members. as below:

- Chairperson, Director or their delegate;
- Technical/subject expert, may be externally or internally resourced;
- Responsible Officer;
- Probity Officer – has no vote in the assessment. This role is to ensure that the evaluation process is followed correctly. The Probity Officer will be nominated by the Office of the CEO.

### **5.3.3 CONFIDENTIALITY**

Tender evaluations should be strictly confidential. All contact with the suppliers must be confirmed in writing through the Responsible Officer advising the TEC. Members of the TEC will not discuss with any other person outside the TEC issues regarding the evaluation. The Chair of the TEC may obtain advice from specialists to assist in the Tender evaluation process.

## **5.4 PUBLIC TENDERS**

The tender evaluation criteria to be used in the evaluation of public tenders shall be included in the tender documents. The criteria shall be selected to suit the requirements of the project, and the tender documents shall request tenderers to provide information relevant to the adopted criteria to support their tender and to allow assessment of compliance with the criteria. If a weighted attributes system is to be used, then the weighting of the attributes shall be provided in the tender documents. For public tenders, total tender price shall be the primary criterion.

Criteria for evaluation of tenders may include, but not limited to, the following:

- Tender price;
- Experience in undertaking similar projects;
- Availability and ability to meet time schedule;
- Previous performance undertaking works for Council;
- Available resources;
- Financial status;
- Quality, environmental, and/or work health and safety systems;
- Risk analysis.

## **5.5 MULTIPLE USE REGISTER**

The criteria for evaluating applications for registration on the multi-use register shall be detailed in the invitation for registration. They may include some of the following:

- Experience;
- Available resources;

- Technical expertise;
- Financial status;
- Performance history;
- Quality system;
- Environmental management system;
- Work health and safety system;
- Employee qualifications;
- Expertise and special skills.

Applicants for registration will be required to provide verifiable evidence of all claims made against each of the specified criteria. A weighted attribute system may be used in the assessment process.

## **5.6 MULTI-STAGE TENDERS**

The evaluation process for preliminary stages of multi-stage tenders will be to evaluate submissions received against the criteria detailed in the ~~tender~~ documents to provide a short list of pre-qualified applicants approved to progress to the next stage.

The final stage will involve evaluating fully detailed and priced tenders based on the specific project requirements which may include:

- Tender price;
- Experience in undertaking similar projects;
- Availability and ability to meet time schedule;
- Previous performance undertaking works for Council;
- Available resources;
- Quality, environmental, and/or work health and safety systems;
- Risk analysis.

## **5.7 REQUESTED TENDERS**

Requested tenders are only invited from suppliers who are considered to have the experience or ability to provide the required service or goods. Price shall therefore be the primary determinant in the selection of the most advantageous tender for Council. However, other factors may be given consideration in assessing requested tenders including:

- Availability and ability to meet time schedule;
- Available resources including any specialised equipment required;
- Quality, environmental, and/or work health and safety systems; and
- The allocation of risk between the Council and the contractor.

## **5.8 TENDER CLARIFICATION**

Council may request additional information from any tenderer to clarify details of any tender, quote or offer. Any requests for additional information shall be made in writing and the tenderer's response shall also be in writing. If a tender is accepted, then the written clarification documents shall be included as part of the contract documents. Request for additional information shall not allow for the alteration of the tendered price, with the exception of correcting gross errors that would have a detrimental

impact to the tenderer, and shall not provide an unfair advantage to that tenderer over other tenderers.

## **5.9 TENDER NEGOTIATIONS**

If none of the tenders or quotes received for a particular work or service fully meets Council's requirements then Council may negotiate with the tenderer that has provided the most advantageous offer in an attempt to achieve a satisfactory offer. During such negotiations Council shall not disclose any details of any other tender received. Council shall not seek to price bargain between tenderers. If a satisfactory offer cannot be negotiated with the preferred tenderer, then Council may negotiate with the other tenderers in order of preference from most to least preferred. Where no tender meets Council's requirements, but it is possible to proceed by making minor changes to the nature of the works or services Council shall negotiate a revised tender with the preferred tenderer, the only acceptable changes to the original tender being those directly associated with the alterations to Council's requirements. The re-calling of tenders should be avoided if possible.

## **6 ACCEPTANCE OF TENDERS, QUOTES AND APPLICATIONS**

### **6.1 REQUESTED TENDERS AND QUOTATIONS**

Under the provisions of section 62 of the *Local Government Act 1993* the CEO has the authority and duty to implement the policies, plans and programs of the Council and is responsible for the day-to-day operations and affairs of the Council. The approval by Council of the operational and capital works budgets and the Annual Plan provides the CEO with the authority to accept requested tenders or quotations provided the value is within the budget allocations. Tenders and quotations that fall outside the limits of this authority must be referred to the Council for consideration at a Council meeting. Departmental Directors have authority to incur expenditure within the limits of the budget allocations in their area of responsibility. Where a requested tender for a project included in the approved budget is accepted the acceptance shall be confirmed in writing.

A Council purchase order issued by an appropriately authorised Council officer must be created for all accepted tenders or quotations.

### **6.2 PUBLIC TENDERS**

All public tenders received for the provision of goods or services valued at \$250 000 or higher must be the subject of a Council meeting agenda item for a decision by Council. Agenda items shall detail the name and address of each tenderer, and the total value of each tender submitted. If alternative tenders have been submitted, then the agenda item must detail any advantages or disadvantages to Council of each alternative tender.

If Council determines to accept a tender, then the successful tenderer shall be advised in writing as soon as possible after the Council meeting.

The following process is to be implemented where a tender for the provision of goods and services valued at \$250 000 or higher needs to be accepted prior to a scheduled meeting of Council, e.g. where price offerings are only available for a short period. On these occasions:

- Council approval will be sought via the electronic circulation of a recommendation from the CEO;
- unless otherwise stated Councillors will be given 48 hours from the time the recommendation is circulated to provide a response;
- where a response is not received within the required 48-hour period it will be taken as being in support of the recommendation;
- the CEO is authorised to accept the tender on behalf of Council if the majority of Councillors are deemed to be in support of the recommendation.

### **6.3 ACCEPTANCE OF TENDERS**

Once a decision has been made to accept a tender the successful tenderer shall be advised as soon as possible. The letter of acceptance to the successful tenderer shall include the following:

- The identification number of the contract;
- The name of the contract;
- The date of the Council meeting at which the tender was accepted;
- The accepted tender price including any options accepted;
- Details of information required to be supplied to Council and the date by which such information is to be provided;
- The date or time for commencement of the works or service;
- The contact details of the responsible Council officer.

#### **6.4 WORK HEALTH AND SAFETY INDUCTIONS**

West Tamar Council expects all contractors, their employees and sub-contractors to comply with, as a minimum, the same WHS Standards that apply to West Tamar Council employees, and to:

- demonstrate a knowledge and commitment toward health and safety, and work with West Tamar Council to meet the health and safety obligations of both parties;
- take all steps necessary to protect their employees, volunteers, suppliers, sub-contractors and the public from any health and safety risks arising from work being undertaken;
- co-operate with West Tamar Council and any other contractors at the work site in the pursuit of positive workplace health and safety outcomes.
- Council's responsible officer must ensure all contractors, their employees and sub-contractors have successfully completed Council's Contractor Induction prior to any work commencing.

#### **6.5 APPLICATIONS**

Applications for registration on a multi-use register shall be assessed by the designated Council officer against the specified criteria. Multi-use registers shall only be altered with the approval of the relevant departmental Director.

The assessment of expressions of interest for pre-qualification for a multi-stage tender shall be the subject of an agenda item for consideration by Council at a Council meeting. Tenders received in the second stage of a multi-stage tender shall be treated in the same manner as public tenders (refer clause 6.2).

#### **6.6 UNSUCCESSFUL TENDERS**

Within five working days of the issue of a letter of acceptance of a tender for any works or services all unsuccessful tenderers shall be advised in writing that their tender was not successful. The letter shall advise the name of the successful tenderer, and, if so directed by the Council decision, the accepted tender price.

## **7 CONTRACT DOCUMENTS**

### **7.1 CONTRACT DOCUMENTS**

The Council officer responsible for any project shall ensure that a copy of the contract document is stored in the Council's ERMS as soon as possible after the acceptance of a tender. The document shall include the following:

- The letter of acceptance of tender;
- The submitted tender;
- Any correspondence between Council and the tenderer after the tender clarifying the offer; and
- The entire tender documents.

For contracts having a value of \$250 000 or higher a formal instrument of agreement shall be prepared referencing all documents which form part of the contract. Both parties to the contract shall sign that formal agreement which shall then be included with the contract documents.

### **7.2 DISTRIBUTION OF DOCUMENTS**

For all contract documents, including those containing a formal signed agreement, one copy of the official signed documents shall be provided to the contractor electronically and one copy retained by the Council officer responsible for the implementation of the project.

The responsible officer, with assistance from Council's Information Management Officers, must ensure that a digital copy of the complete contract documentation is filed in Council's ERMS immediately after signing so it is available to other officers involved in supervising the works of the contract, e.g. Council's Civil Works Officer.

## **8 CONTRACT MANAGEMENT**

### **8.1 EXTENSION OF CONTRACT**

Regulation 24(5) of the *Local Government (General Regulations) 2025* provides that a Council may only extend a contract entered by tender:

- As specified in the contract; or
- If the contract does not specify extensions, by an absolute majority.

### **8.2 RESPONSIBLE OFFICERS**

The Council officer responsible for any contract shall ensure that the works or services provided under that contract are in accordance with the requirements of the contract documents. Any agreed variations to the contractor's obligations shall be confirmed in writing. Adequate supervision and monitoring of the contractor shall be undertaken to ensure compliance in a timely manner.

### **8.3 PAYMENTS**

The responsible Council officer shall be responsible for checking all claims for payment under a contract. No payment shall be approved unless a Tax Invoice has been received from the contractor having a value equal to or exceeding the value of the authorised payment. All approvals for payment under contracts shall be authorised by a Council officer having the relevant purchasing authority. When approving payment, the Council officer shall:

- Ensure that the approval relates only to work completed under the terms of the contract, and
- Have regard to all previous payments made under the contract, and
- Ensure that the request complies with the requirements of the contract documents, including any requirements for Council to hold retention money.

### **8.4 COMPLETION OF CONTRACT**

Immediately prior to the completion of any contract the responsible Council officer, in conjunction with the contractor's representative, shall inspect the works to verify completion, or meet to confirm that any services provided have been satisfactorily completed. Any defects or non-compliance shall be confirmed in writing to the contractor prior to the completion date for the contract with a request for the outstanding issues to be addressed in accordance with the terms of the contract. All manuals, guarantees, instructions, training and asset data shall be received by Council prior to the final payment being approved. At the completion of any contract the responsible Council officer shall ensure that any final payments due to the contractor are requested and that any security is released. Council's finance staff shall be advised of the date of completion of all contracts.

## 9 COMPLAINTS

Any complaint regarding the implementation of this code shall be dealt with by Council in accordance with the provisions of the Complaints Management Process detailed in Council's Customer Service Charter.

## 10 REPORTING

Regulation 30 of the *Local Government (General Regulations) 2025* provides that a council is to report the following in its annual report in relation to any contract for the supply or provision of goods or services valued at or above \$250 000, excluding GST, entered or extended under Regulation 24(5)(b)] in the financial year:

- A description of the contract;
- The period of the contract;
- The periods of any options for extending the contract;
- The value of any tender accepted, or if a tender was not required, the value of the contract excluding GST;
- The business name of the successful contractor;
- The business address of the successful contractor.

A council is also required to report in its annual report all instances where the public tender process was not used under the exemption provisions of Regulation 28(a) and (i), with the following details:

- A brief description of the reason for not inviting public tenders;
- A description of the goods or services acquired;
- The value of the goods or services acquired;
- The name of the supplier.

Furthermore, a council is to report the following in its annual report in relation to any contract, for the supply or provision of goods or services valued at or exceeding \$100 000 (excluding GST) but less than \$250 000, that is entered, or extended, in the financial year to which the annual report relates:

- a description of the contract;
- the period of the contract;
- the periods of any options for extending the contract;
- the value of the contract (excluding GST);
- the business name of the successful contractor;
- the business address of the successful contractor.

## 11 AVAILABILITY OF THIS CODE

Copies of the current edition of this Code are available:

- For public inspection at the Council's offices at West Street, Beaconsfield and Eden Street Riverside, during ordinary office hours (8.30 am to 4.45 pm Monday to Friday, excluding public holidays),
- For purchase at a cost of \$25.00; and
- On Council's Website at <https://www.wtc.tas.gov.au/>.

## 12 EFFECTIVE DATE AND APPROVAL

This code was last updated effective from the Council meeting of 20 January 2026.

*Approved by Council on 20 January 2026 (26/10)*

Signed:



Chief Executive Officer