

TASMAN COUNCIL



PROCUREMENT POLICY (Code for Tenders and Contracts)

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1. INTRODUCTION

The purpose of the Procurement Policy (Code for Tenders and Contracts) is to provide a policy framework on best practice tendering and procurement methods in line with the legislative requirements of the *Local Government Act 1993* (“the Act”) and the *Local Government (General) Regulations 2015* “the Regulations”).

With this Policy the Tasman Council (the Council) aims to achieve the purchasing principals of:

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

The Act requires every council to adopt a code relating to tenders and contracts.

This Code:

- Is consistent with the Act and the Regulations; and
- Includes procedures and guidelines for any prescribed matter.

To ensure complete transparency and accountability of the Council, the General Manager will:

- Make a copy of the Code (and any amendments) available for inspection at the council office during ordinary office hours;
- Make copies of the Code available for purchase at a reasonable charge; and
- Publish a copy of the Code on Council’s website.

The Act and Regulations require the Council to invite tenders for any contract it intends to enter into for the supply or provision of goods or services valued at or above \$100,000 (excluding GST).

The Council will not split a contract into two or more contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders.

Officers acting under this Code should do so under the delegated authority from the General Manager.

2. DEFINITIONS

Code – refers to this Code for Tenders, Contracts and Procurement which has been developed in accordance with the requirements of the *Local Government Act 1993* and *Local Government (General) Regulations 2015*.

Contractor – a person or organisation, external to the Council, engaged under a contract for service (Other than as an employee) to provide specified services to the Council.

Contract – a contract is an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do, or abstain from doing, some act.

Expression of Interest (EOI) – an Expression of Interest may be used as a means of exploring the market or to pre-qualify businesses to reduce the cost of tendering by restricting the issue of formal tenders.

Local Business – any business operating in the Tasman Council municipal area that has a permanent office or presence in the municipal area.

Multiple-stage Purchasing – a process which allows for a preliminary assessment of the market to be made in terms of the capabilities, of potential suppliers and the goods and services that are available to satisfy the requirement before a final purchasing stage is undertaken.

Preferred Supplier – a supplier that has satisfied the Council’s selection criteria and is approved for the purchase of particular goods and services.

Procurement – the entire process by which all resources are obtained by an entity, including planning, design, standards determination, specification writing, selection of suppliers, financing, contract administration, disposals and other related functions.

Probity – probity is a risk management approach to ensuring procedural integrity.

Public Tender – a tender where any business that can meet the requirements of the Request for Tender can bid.

Purchasing – the acquisition of goods or services.

Quotation – the bid submitted in response to a Request for Quotation from the Council.

Request for Quotation (RFQ) – either a verbal or written request for offers from businesses capable of providing a specified good or service.

Request for Tender (RFT) – a document soliciting offers from businesses capable of providing a specified good or service. Requests for Tender are usually advertised.

Standing Tender – a tender from 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.

Tender – a proposal, bid or offer that is submitted in response to a Request of Tender from the Council.

Tender Evaluation Panel – a panel established to review the process used for all tenders over \$100,000 (excluding GST).

Value for Money – achieving the desired outcome at the best possible price.

Verbal Quotation – a verbal response to a request for a quotation.

Written Quotation – a written response to a request for a quotation.

3. PURCHASING PRINCIPLES

This Code has been developed in order to provide a transparent set of strategies and procedures that the Council will follow in order to comply with the four purchasing principles as required in the *Local Government (General) Regulations 2015*. Below is a brief definition of each principle and what it means in practice to the Council.

3.1 Open and effective competition

This ensures that the purchasing process is unbiased, open and encourages competitive offers.

In practice this means that the Council will:

- Use transparent and open procurement processes so that potential contractors, suppliers and the public can have confidence in the outcomes;
- Adequately test the market by application processes, e.g. by open tender or by seeking quotations;
- Avoid biased specifications; and
- Treat all suppliers consistently and equitably.

3.2 Value for money

Achieving the desired outcome at the best possible price.

In practice this means that the Council will weigh-up the benefits of each purchase against the costs of that purchase. In doing this, it may take the following factors into consideration:

- Fitness purpose;
- Maintenance and running costs over the lifetime of the product;
- The advantages of supporting local businesses;
- Council is committed to a reduced-waste future and supports Reduce, Reuse and Recycle opportunities, the contribution to the achievement of other Council goals and objectives such as Environment and Business & Employment;
- Quality assurance and perceived level of risk;
- The capacity of the supplier, e.g. managerial and technical abilities; and
- Disposal value.

3.3 Enhancement of the capabilities of local business and industry

Ensuring the local businesses that want to and can do business with Council are given the opportunity to do so.

In practice this means that the Council:

- Will actively seek quotes from local businesses, if available, particularly from those which have previously requested the opportunity to quote;
- Will, for purchases less than \$10,000 (excluding GST), seek at least one verbal quote from a local business, if available.
- Will, for purchases between \$10,000 and \$50,000 (excluding GST), seek at least one written quote from a local business, if available; and
- Will, for purchases greater than \$50,000 (excluding GST), seek to get at least one tender from a local business, if available.

3.4 Ethical behaviour and fair dealing

All procurement is undertaken in a fair and unbiased way and in the best interest of the Council.

In practice this means that the Council:

- Will be fully accountable for the purchasing practices that it uses and the decisions it makes;
- Ensure that decisions are not influenced by self-interest or personal gain (i.e. declining gifts or other personal benefits from suppliers);
- Identify and deal with conflicts of interest;
- Maintain confidentiality at all times; and

- Ensure that all procurement is undertaken in accordance with the Council's policies.

4. ETHICS AND PROBITY

4.1 Ethics

The Council will observe the following ethical standards when making procurement decisions:

- All transactions will be conducted in the best interests of the ratepayers, avoiding any situation which may impinge, or might be deemed to impinge, or impartiality;
- All expenditure will be in accordance with the requirements of the *Local Government Act 1993* and the *Local Government (General) Regulations 2015*;
- All procurement activity will be undertaken without favour or prejudice and will aim to maximise value in all transactions;
- Confidentiality will be always maintained; and
- Acceptance of gifts and any other benefits which may influence, or might be deemed to influence, equity or impartiality will not be permitted.

4.2 Probity

In order to achieve probity, the Council will consider the following five principles throughout all stages of procurement and contracting processes to ensure success in achieving the best value for public money:

- Open competitive processes;
- Transparency of process;
- Identification and resolution of conflicts of interest;
- Accountability; and
- Monitoring and evaluation performance.

4.3 Procurement

The following make up Council's commitment to equitable and transparent Procurement. The Council aims to:

- Ensure that all potential suppliers are provided with identical information upon which to base tenders and quotations and are given equal opportunity to meet the requirements;
- Establish and maintain procedures to ensure that fair and equal consideration is given to all tenders and quotations received;
- Promote honesty and equity in the treatment of all suppliers of goods and services;
- Provide a prompt and courteous response to all reasonable requests for advice and information from potential or existing suppliers;
- Promote fair and open competition and seek value for money for the Council and its community;
- Protect commercial-in-confidence information;
- Satisfy accountability standards;
- Establish processes that avoid situations where private interests of the Council's employees may conflict with public/Council duty and provide for the declaration of any conflicts of interest that do arise; and
- Provide a clear and concise statement that soliciting or accepting remuneration or any other benefits from a supplier for the discharge of official duties is not permitted and may be illegal.

5. MAKING THE PURCHASE

5.1 Procurement overview – processes

The following procurement overview is provided to give a brief description on the way in which the Council procures routine goods and services:

- Plan the purchase, which includes the selection of the most appropriate purchasing method;
- Prepare the relevant documents, e.g. quotation, tender or expressions of interest;
- Invite and receive offers;
- Evaluate those offers;
- Where the process has involved a formal contract process for a contract of a value greater than that of the General Manager's delegation, gain a Council resolution to formally proceed with the contract with one of the contractors;
- Advise the successful bidder and offer to debrief any unsuccessful bidders; and
- Manage any contract that has been implemented as a result of the procurement.

5.1.1 Local Preference/Content Evaluation and Weighing Criteria

A local preference is not simply the application of a price benefit/incentive to a local supplier, but also a quantitative measurement that can be utilised in recognition of the physical presence of the supplier in the Tasman Council area and the demonstrated and/or actual accompanying social and economic benefits that this provides to Council. These benefits may include:

- Creation of new and/or maintenance of existing local employment opportunities;
- More responsive and readily available servicing support;
- Closer and more convenient communication regarding progress, performance and measurement to enable effective and efficient contract administration and management;
- Encouragement for the relocation of established businesses from outside the region to physically enter, establish and maintain a physical presence within the region;
- Assistance to businesses to become stable;
- Assistance to local businesses to remain competitive;
- Support for economic growth within the local area; and
- Returning value-added benefits to Council and its ratepayers from the associated local commercial transactions.

Council will, therefore, use an approach that combines price considerations and non-price weightings that will deliver the best outcome and demonstrate the best local economic benefit.

5.2 Planning the Procurement

The following steps may be taken by Council's staff during the planning phase of procurement.

- Any relevant approval to undertake a procurement process is obtained;
- An estimate of the cost of the goods or service is undertaken and available Council funding of such a procurement is confirmed, and an appropriate method of procurement is chosen;
- Market research and consultation is undertaken, e.g. what products are available on the market and how many suppliers there are available;
- The specifications, shall where applicable, comply with the *Work Health and Safety Act 2012*;
- The specifications are defined, and mandatory requirements are identified. The specifications will usually be developed in consultation with relevant Council stakeholders;
- Establishment of a Tender Evaluation Panel, if required;
- The development of a risk assessment and management plan; and

- Commencement of a contract management plan.

There are three tendering and procurement thresholds that require different levels of involvement in planning and executing the procurement. The following table refers to the threshold and summarises what purchasing method Council utilises based on the total dollar value of the purchase (excluding GST).

Procurement Value	Minimum Requirement
\$30,000 and below (excluding GST)	<p>Verbal Quotations</p> <p>At least three verbal quotations, where possible, will be obtained, of which the Council will seek at least one from a local business (if available) and issue a purchase order form to the successful business including the agreed price.</p> <p>Exemption from obtaining verbal quotations.</p> <p>Quotations are not required for one-off purchases valued at \$500 or less where it would not be cost-effective to obtain verbal quotations.</p>
Between \$30,001 and \$249,999 (excluding GST)	<p>Written Quotation</p> <p>Where possible, at least three written quotations will be obtained, of which the Council will seek at least one from a local business (if available).</p> <p><i>Note: Quotations will be requested using Tenderlink.</i></p>
\$250,000 and greater (excluding GST)	<p>Public Tender</p> <p>The tenders will be advertised in the Saturday edition of the Mercury Newspaper or other newspapers as appropriate.</p> <p>Each of the tenders will be advertised on the Council’s website.</p> <p>The Council will encourage tenders from local businesses.</p>

The Council will apply the above requirements to the procurement of all goods and services except for certain circumstances.

5.3 Purchasing Documentation

5.3.1 Verbal Quotation (for procurement below \$30,000 excluding GST)

Tasman Council will undertake most procurements below \$10,000 on a verbal basis and as such there will not be any formal quotation documentation. The Council may choose, for all but very low-value/low-risk procurement, to provide suppliers with a written specification and request a written quotation.

5.3.2 Written Quotations (for procurement between \$30,001 and \$249,999 excluding GST)

The Request for Quotation (RFQ) is a document inviting offers from businesses to provide a specified good or service. Council’s quotation documents will include all terms and conditions of quotation, together with a clear description of the goods or services required, and the details of any applicable Council policies. RFQ’s will be requested via Tenderlink.

The complexity of the documentation will depend upon the nature and value of the procurement. Generally, the RFQ documentation will consist of:

- **Conditions of Quotations** – The conditions set out the terms under which Council will receive and evaluate offers. The conditions will usually include:
 - The evaluation criteria and a brief outline of the evaluation methodology to be used;

- The closing date, time, and place of lodgement;
 - The Council's contact details;
 - Pricing requirements, i.e. the price should exclude GST;
 - Relevant Council policies and principles;
 - The entitlement of unsuccessful bidders to be debriefed; and
 - Information about the Council's complaints process.
- **Specifications** – the specifications clearly, accurately, and completely describe the essential requirements of the goods or services being procured. It is the basis of all offers and is the foundation for the contract. The specification will usually include the:
 - Functional requirements;
 - Performance requirements; and
 - Technical requirements.

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

The Request for Tender (RFT) is a document inviting offers from businesses to provide a specified good or service. The Council's RFT documentation usually consists of four main parts. These four parts are:

- **Conditions of Tender** – The Conditions of Tender set out the terms under which the Council will receive and evaluate tenders. The conditions will usually include:
 - The evaluation criteria and a brief outline of the evaluation methodology to be used;
 - The closing date, time, and place of lodgement;
 - The Council's contact details;
 - Pricing requirements, i.e. the price should show GST separately;
 - Relevant Council policies and principles;
 - The entitlements of unsuccessful tenderers to be debriefed; and
 - Information of the Council's complaints process.
- **Specifications** – the specifications clearly, accurately, and completely describe the essential requirements of the goods or services being procured. It is the basis of all offers and is the foundation for the contract. The specification will usually include the:
 - Functional requirements;
 - Performance requirements; and
 - Technical requirements.
- **Conditions of Contract** – The Conditions of Contract contain the contractual terms defining the obligations and rights of the parties concerned. Generally, contracts are used where there are material risks involved.
- **Tender Form** – The Tender Form must be completed, signed, and returned by the tenderer. It includes a declaration by the tenderer that: the tenderer agrees to the Conditions of Tender; the information provided in the tender is accurate and correct; and the person signing the form is duly authorised to do so.

The Council, when preparing the tender documentation, will undertake the following procedures and processes:

- Prepare clear and concise tender documentation that includes all terms and conditions of the planned procurement with a clear description of the goods or services required and details of any applicable Council policies;
- Prepare tenders that include details of the intended duration of the contract, including any extensions that are applicable to the contract;

- Prepare tenders that include details of the evaluation criteria (which are based on the specifications), any weightings to be used in the assessment of bids and the valuation methodology;
- Under no circumstances modify the evaluation criteria or methodology after the request for tender has been released without advising all potential tenderers;
- Prepare specifications that do not restrict competition, reflect bias to any brand, or act as a barrier to the consideration of any alternatives;
- Provide advice and details of any briefing sessions to be held in relation to the procurement;
- Provide details about the availability of debriefing sessions for unsuccessful tenderers;
- Provide details about the Council's complaints process and include the contact details of the complaints officer;
- Prepare documentation that clearly specifies the Council's contact details (including Contact Officer), closing time, date, and place of lodgement;
- Prepare documentation that clearly states how and in what circumstances the procurement documentation can be altered, including the length of time given to tenderers to prepare their submissions (which is to be at least 14 days from the date on which the tender notice is published);
- Provide advice about the treatment of late submissions;
- Provide an indication if alternative bids will be considered; and
- Where applicable, documentation such as tenders will be cleared by the Council's legal advisers and the General Manager before being issued.

5.4 Inviting Offers

5.4.1 Verbal Quotations

The Council will follow the following procedures when inviting verbal quotations:

- Provide each supplier with the same information and give each supplier the same amount of time to prepare a quote; and
- Seek at least one verbal quotation from a local business (if available).

5.4.2 Written Quotations

The Council will follow the following procedures when inviting written quotations:

- Where possible, it will seek at least three written quotations of which one quotation will be sought from a local business if available;
- In some cases, it may choose to advertise a quotation if advantageous to do so;
- It will directly send the invitation to quote to identified businesses (such as businesses that have already supplied the good or service to Council previously);
- Exemption from seeking quotations will only be granted by the General Manager in circumstances outlined under Section 6 – *Exemptions*;
- It will issue the request for quotation documentation either by mail or email;
- When issuing a request for quotation to a business, the details of that business will be recorded. The details recorded will include name of business, address, contact person, email, telephone number; and
- The time it provides to bidders to the request for quotation will depend largely upon the nature and the complexity of the procurement, but equal time will be given to all businesses requested to quote.

5.4.3 Tenders

The Council will do the following in respect of inviting tenders:

- For tenders, it will advertise each tender, at a minimum, in the Saturday edition of The Mercury Newspaper, and on the Council's website www.tasman.tas.gov.au. The following information will be specified:
 - The nature of the goods or services the Council requires;
 - Any identification details allocated to the contract;
 - Where the tender is to be lodged;
 - Identifying a person from whom more detailed information relating to the tender may be obtained; and
 - The period within which the tender is to be lodged.
- The tender documentation will either be made available via mail, email, or electronically from the Council's website www.tasman.tas.gov.au. (Any electronic or online tendering process undertaken by the Council will be in accordance with the requirements of the *Electronic Transactions Act 2000*).
- It may send tender documents directly to identified businesses, however, it will not provide any documentation to any potential tenderer until the tender has been advertised (so as not to give one tenderer an advantage over another).
- Endeavour to get a minimum of three bids of which it will seek at least one from a local business if available.
- Ensure that all potential suppliers are provided with identical information upon which to base tenders and are given equal opportunity to meet the requirements.
- When inviting tenders, ensure that enough time has been provided to allow tenderers to prepare an adequate response. At a minimum, tenders will be open 14 days. However, this may increase, dependent on whether the requirements are complex, or if it is likely that interested businesses may need to form partnerships/consortiums with other businesses in order to fulfil the requirements of the tender.
- When issuing an RFT to a business, record the details in that business. The details recorded will include name of business, contact person, email and telephone number.
- If for any reason, there is a need to alter the tender documentation once it has been issued, an addendum will be sent to all businesses that have been issued with that documentation.
- If it is necessary to extend the closing date of the tender, the following will be done:
 - All businesses that have been issued with tender documentation will be advised in writing of the change in closing date; and
 - The new closing date will be advertised in all newspapers and websites where the original advertisement was placed.

5.4.4 Communication with all potential suppliers and bidders – Contact Officer

In accordance with this Code, the Council will do the following in respect of communication with all potential suppliers and bidders:

- Nominate one Contact Officer for each procurement activity and clearly specify their name, contact details, so tenderers know who to contact for more information (one person only for probity reasons);
- The Contact Officer will be the sole point of communication with potential suppliers and bidders and will document any questions asked of them by a potential supplier or bidder and any responses given;
- Where possible, the Contact Officer will request the questions from potential suppliers and bidders be put in writing (email will suffice). Any responses from the Contact Officer will also be provided in writing;
- Where possible, the Contact Officer will limit the provision of information to the clarification of procedural issues; and
- Any additional information provided to one prospective tenderer will also be provided to everyone else who has requested or received tender documentation.

5.5 Receiving Offers

5.5.1 Verbal and Written Quotations

The Council will hold any written or verbal quotations received prior to the closing date in a secure location to maintain confidentiality, to ensure probity and to protect the individuals involved from claims of unfair practices.

All quotations that the Council receives will be clearly marked with the time and date of receipt and recorded in an appropriate schedule of register.

For written quotations, the Council will follow the procedures set out in the conditions of quotations for any late quotations and, by accepting a late quotation, the Council will ensure that it is not providing an advantage to that bidder over other bidders.

5.5.2 Tenders

Council utilises TenderLink which is an electronic lodgement system for receiving tenders. All tenderers should register with TenderLink to be able to access and submit tenders.

Council Officers will advise suppliers how to access TenderLink.

The Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons. The Council may in some cases notify all tenderers of process tendered prior to a decision being made.

In receiving tenders, the Council may reject non-compliant offers (in accordance with the terms of the tender documents) which:

- Are lodged after the closing time without a valid reason;
- Are not signed where required;
- Are incomplete, e.g. questions have not been answered, pages are missing, or required documentations has not been attached (e.g. insurance certificates);
- Do not comply with mandatory conditions of tender; or
- Fail to meet mandatory specifications.

When opening tenders, the Council will ensure that tenders are:

- Opened in the presence of a minimum of two officers, and
- Clearly identified and recorded.

The Council will follow the procedures set out in the conditions of tender for any late tender submissions and by accepting a late tender, the Council will ensure that it is not providing an advantage to that tenderer over other tenderers.

5.6 Evaluating Offers

5.6.1 Verbal and Written Quotations

The Council, when evaluating verbal and written quotations, does so with the objective of identifying the offer that best meets the requirements and provides the best value for money. When evaluating quotations, it takes into consideration the following aspects of a bid:

- Value for money, taking into account estimated life, disposal value and maintenance requirements and costs;
- Price;
- Compliance with quotation specifications;
- Qualify, delivery and service;

- The full benefits of sourcing locally;
- The consequences, including possible risks, of entering into a contract where there is one supplier, or a limited number of suppliers, that can provide and maintain the product over its lifetime; and
- Any relevant Council policies.

5.6.2 Tenders

The Council will evaluate tenders in accordance with the evaluation criteria and methodology specific in the evaluation plan, which was developed prior to offers being invited. Under no circumstances will the Council modify the evaluation criteria or methodology after the request for tender has been released unless all potential tenderers are advised of the change in writing.

In evaluating tenderers, the Council will undertake the following steps:

- **Evaluation compliance** – screen all offers that they are complete and comply with all mandatory evaluation criteria. Offers which do not meet all mandatory criteria may be excluded from further evaluation. Non-compliant offers include those that:
 - Are lodged after the closing time without a valid reason;
 - Are not signed where required;
 - Are incomplete, e.g. questions have not been answered, pages are missing, or required documentations has not been attached (e.g. insurance certificates);
 - Do not comply with mandatory conditions of tender; or
 - Fail to meet mandatory specifications.
- **Clarify offers** – it may be necessary to seek clarification from a tenderer if an offer is unclear. Clarification does not mean that tenderers can revise their original offer. Any clarification sought will be documented in writing.
- **Evaluation qualitative/non-cost criteria** – this stage involves a detailed analysis of each offer against the non-cost or qualitative evaluation criteria and weightings specified in the evaluation plan (the supplier must demonstrate that they meet the evaluation criteria, not just assert it).
- **Short-list offers** – this step is only used for complex purchases in order to eliminate offers that are clearly not competitive. However, during this process, eliminated offers are not yet totally rejected, and may be revisited later in the evaluation process.
- **Requests for tenderers to make a formal presentation** – if appropriate, and tenderers have been forewarned in the Conditions of Tender, tenderers may be requested to make a formal presentation to the Tender Evaluation Panel, clarify their tender and providing the opportunity for the Tender Evaluation Panel to ask questions. Under these circumstances, the tenderer will be directed to not introduce new or revised information. All information, questions and answers will be formally recorded by the Council.
- **Calculate value for money and compare offers** – the aim of the Council’s comparative evaluation process is to determine which offer best meets all the requirements of the specifications and offers the best value for money. The major factors which the Council takes into consideration when evaluating value for money are:
 - The quality of the proposed good or service, i.e. how well it meets the specified requirements; vs
 - Whole of life costs: vs
 - Risk, i.e. the capacity of the tenderer to deliver the good or service, as specified, on time and on budget.
- **Select preferred tenderer** – when selecting the offer that represents the best value for money for Council, and where two or more firms are ranked equally following the value for money assessment, the Council will give preference to a Tasmanian business over an interstate or overseas business. In selecting a preferred tenderer for a high risk/high value or complex process, the Council will often undertake a due diligence investigation to ensure that the tenderer has the capacity and stability to fulfil all of the requirements of the contract.

- **Write the evaluation report** – on completion of the evaluation process for tenders \$100,000 or more, the Council will document the selection of the successful tenderer in an evaluation report to be tabled to the next Council Meeting for the final approval. For tenders under \$100,000 approval of the successful tender will be as per the General Manager’s delegation. The Council’s evaluation report includes:
 - A comprehensive record of the evaluation method, the rationale used to select the preferred supplier, and whether it is recommended that negotiations should be undertaken, and on what basis; and
 - Reasons for overlooking lower priced tenders.

5.7 Tender Review

5.7.1 Tender Evaluation Panel

A Tender Evaluation Panel (the Panel) may be established by the Council to review the purchase/lease of all goods and services over \$50,000 (excluding GST), prior to the awarding of contracts, to ensure that the Council’s procurement policies are adhered to.

The Panel will consist of between two and four members who are knowledgeable of the purchase requirements.

Members of the Panel will individually review and consider each of the tenders and meet together to agree on a recommendation.

The Panel will provide a recommendation to the Council of the tender which in the Panel’s evaluation weightings.

The Panel will provide a recommendation to the Council of the tender which in the Panel’s evaluation best meets the relevant criteria.

The final decision for awarding a tender (contract) is at the sole discretion of the Council. In circumstances where the Council determines to award a contract contrary to a Panel’s recommendation, the reason for its decision is to be recorded in the minutes.

5.7.2 Notification of successful and unsuccessful tenderers

Once the preferred tenderer is selected and all relevant Council approvals to proceed with the purchase have been granted, the Council will write and (in more cases) telephone the preferred tenderer to notify them that they have been successful. After the preferred tenderer has been notified, the Council will notify all unsuccessful tenderers in writing of their non-selection.

The Council will advise the unsuccessful tenderers in writing of:

- The tender outcome, including the contract number and title;
- The successful tenderer;
- The term of the contract; and
- The total contract price for the term of the contract.

All unsuccessful tenderers will be offered a debriefing session.

5.7.3 Debriefing unsuccessful tenderers

The purpose of the debriefing session is to help unsuccessful tenderers submit more competitive bids in the future by identifying ways in which the tenderer’s offer could be improved.

The Council will provide a debriefing interview to any unsuccessful tenderer who requests one. At this interview the unsuccessful tenderer will be debriefed as follows:

- How their offer preformed with respect to the evaluation criteria; and
- Strengths as well as weaknesses of their offer.

During the interview, the following will not occur:

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

The Council will document the proceedings at each debriefing interview, including:

- Who attended (from the Council and from the business concerned);
- The information provided to the unsuccessful tenderer;
- Any issues arising;
- The details of any information that was requested, but not disclosed due to commercial-in-confidence considerations; and
- Any likely future complaints, and recommendations for future action.

Where a multiple stage purchasing process is used, e.g. where Expressions of Interest are used to short-list tenderers, suppliers not short-listed may be offered a debriefing interview, in a similar way to unsuccessful tenderers.

5.7.4 Contract Management

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

- The conditions of tender;
- The specifications, including any plans and other attachments;
- The successful offer; and
- The conditions of contract.

A draft copy of the conditions of contract will be included in the Council's original RFT.

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

- Test the understandings and assumptions made by tenderers in determining their costs;
- Clarify and rectify any false assumptions; and
- Achieve operational refinements and enhancements that may result in cost reductions.

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

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

5.7.5 Standing tenders

From time to time the Council may utilise a standing tender in which one or more tenderers are contracted through an open tender process to provide specified goods or services over a period without the need for a future tender process.

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.

5.7.6 Multiple-stage tenders

From time to time the Council may utilise a multiple stage process to:

- Gain market knowledge and clarify the capability of suppliers (however, it will not be used as a substitute for conducting market research);
- Short-list qualified tenderers; and
- Obtain industry input.

A multiple stage tenderer process may be more costly and time-consuming for both suppliers and for the Council, and as such will usually only be used where:

- The best way to meet the requirement is unclear;
- It is considered appropriate to pre-qualify businesses and restrict the issue of formal tenders (to reduce the cost of tendering);
- There are benefits which cannot be obtained by researching the market through conventional means; and
- Maximise flexibility is required throughout the procurement process.

The multiple-stage processes that the Council may use are as follows:

- Expression on interest – an expression of interest (sometimes called a registration of interest) is generally used to short-list potential suppliers before seeking detailed offers. Suppliers are short-listed on their technical, managerial and financial capacity, reducing the cost of tendering by restricting the issue of formal tenders to those suppliers with demonstrated capacity.
- Request of proposal – may be used by the Council when a project or requirement has been defined, but where an innovative or flexible solution is sought.
- Request for tender – may be used by the Council when a project requirement has been defined to solicit offers from businesses capable of providing a specified good or service.
- Request for information – may be used at the planning stage of a project to assist with defining the project. The Council will not issue a request for information to identify or select suppliers.
- Closed tender process – may be used if the initial specification is well defined and an expression of interest or request for proposal has already been used to short-list suppliers. Suppliers will be informed in advance that only those short-listed will be requested to tender.

The Council is mindful of the following aspects when conducting a multiple-stage tender process:

- The same mandatory requirements regarding advertising and seeking at least one bid from a local business, that apply to a public tender process;
- That a short-list party cannot be engaged without going through a more detailed second (tender) stage process unless approved by an absolute majority of the Council; and
- When using a request for information, issues relating to intellectual property and copyright must be clarified prior to using the information provided to prepare the Request for Tender.

5.7.7 Process

Expressions of interest will be invited, and the list of suppliers who lodge an application will be used as the basis for inviting potential suppliers to submit tenders.

A Notice will be published at least once in a daily newspaper circulating in the municipal areas requesting any interested supplier to submit an expression of its interest to supply the goods or services required. The notice is to specify:

- The nature of the goods or services the Council requires;
- Any identification details allocated to the contract;
- Where the expression of interest is to be lodged;
- Identifying a person from whom more detailed information relating to the tender may be obtained; and
- The period within which the expression of interest is to be lodged.

Prospective tenderers will be provided with the following in order to lodge an expression of interest:

- Details of the goods or services required;
- The criteria for evaluating expressions of interest;
- The method of evaluating expressions of interest against the criteria;
- Details of any further stages in the tender process; and
- A reference to the Council's Procurement Policy (Code of Tendering and Contracts).

An invitation to tender will be sent to all of the suppliers that expressed an interest in providing the goods or services required unless it has been stated specifically in the notice that the Council may limit the suppliers that it will invite to participate.

Provided that the notice requesting expressions of interest states specifically that the Council may limit the suppliers it will invite the participants and the relevant requirements and evaluations criteria have been specified in the notice or associated documentation, the Council, in determining the suppliers that will be invited to tender, may:

- In assessing the technical ability, assess the extent to which an application meets the technical performance specifications of the procurement; and
- Limit the number of businesses that the Council invites to tender, based on its rating of applications, provided that the largest number of potential suppliers selected, is consistent with an efficient tender process.

That Council will:

- Ensure that the evaluation criteria that is used to decide at the first stage of the process (expression of interest), is consistent with the criteria to be used for the second (tender) stage; and
- Not directly engage a short-listed party without going through a more detailed second (tender) stage process unless approved by an absolute majority of the Council.

6. EXEMPTIONS

The *Local Government (General) Regulations 2015* provide that councils must publicly invite tenders for the purchase of goods and services with a value in excess of \$250,000 (excluding GST).

The Council is committed to:

Encouraging open and effective competition between suppliers with the objective of obtaining value for money; and
Enhancing opportunities for local businesses.

As per the Regulations, the Council may not issue a tender or use a quotation process where the goods and services sought relate to:

- “(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 –
 - (i) another council; or

- (ii) a single authority or joint authority; or
 - (iii) the Local Government Association of Tasmania; or
 - (iv) any other local government association in the State or in another State or a Territory; or
 - (v) any organisation, or entity, established by any other local government association in this State or in another State or 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 at public auction;
 - (g) a contract for insurance entered 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) 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.”

Point (i) above may be applied for one or more of the following reasons:

- Where it can be established that there is only one supplier of a particular product or service and there is no appropriate substitute available, or where alternative options are not viable or do not provide value for money;
- Where the original product or service has been selected through an open tender process and the request for exemption relates to the proposed purchase of an upgrade or addition to the existing system, and there are limited supply options;
- The product is being trailed to assist in the evaluation of its performance prior to a large-scale purchase for which open tenders will be called;
- To assist in the development of a new product in conjunction with a private sector business;
- Where the cost to the Council and to suppliers would outweigh the value for money benefits of calling public tenders;
- Projects of genuine urgency, e.g. in the case of a natural disaster or similar emergency circumstances; or
- Other exceptional circumstances, where conclusive justification of the request is provided.

Where an exemption has been granted based on point (a) or (i) above, the Council will report in the Council’s Annual Report the following details:

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

7. COMPLAINTS PROCESS

Tasmanian councils are provided with broad competency powers under the *Local Government Act 1993* to carry out the role of providing services to their communities.

The Act also includes accountability measures under which councils can be held responsible to their communities for their actions and decisions.

The Council has a formal complaints process which can be used should you wish to make a complaint about the Council's purchasing and procurement process. This process is included in Councils Customer Service Charter available on the Council's website www.tasman.tas.gov.au.

8. CONTRACT RENEWALS AND EXTENSIONS

In most cases, where the goods or services being delivered under the contract are required on an ongoing basis, the Council will undertake a new procurement process (tender/quotation) prior to the completion of the existing contract.

8.1 Contract Extensions

In some circumstances, it may be desirable for the Council to extend an existing contract, rather than seek new tenders or quotations for the delivery of the goods or services.

Contract will only be extended:

- By an absolute majority of the Council;
- Following a full evaluation of the performance of the current contractor; and
- Where the principles of open and effective competition are protected.

9. DISPOSALS

Disposals are to be conducted in accordance with Council's Disposal of Surplus Goods and Equipment Policy so that the best return to the Council is achieved. Disposal of land will be made in accordance with Division 1 of the Part 12 of the *Local Government Act 1993*.

10. REPORTING

10.1 Annual Report

The Council will publish in its Annual Report in relation to tenders valued at over \$250,000 (excluding GST) and all contracts for the supply or provision of goods or services valued at or above \$100,000 (excluding GST), awarded or entered into in the financial year, including extensions granted:

A description of the tender of contract:

- The period of the tender or contract;
- The period of any options for extending the tender or contract;
- The value of any tender awarded or, if a tender was not required, the value of the contract excluding GST;
- The business name of the successful tenderer; and
- The business address of the successful tenderer.

Where an exemption has been granted from a tender process (refer to Section 6, points a to i), the Council will report in the Council's Annual Report 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; and
- The name of the supplier.

11. COMMON USE CONTRACTS

11.1 Department of Treasury and Finance

Where the Department of Treasury and Finance has established whole-of-government contracts for the supply of goods or services to agencies and other authorised organisations, the Council may choose to utilise the whole-of-government contracts:

Information on these contracts is available from the Department of Treasury and Finance's website www.purchasing.tas.gov.au.

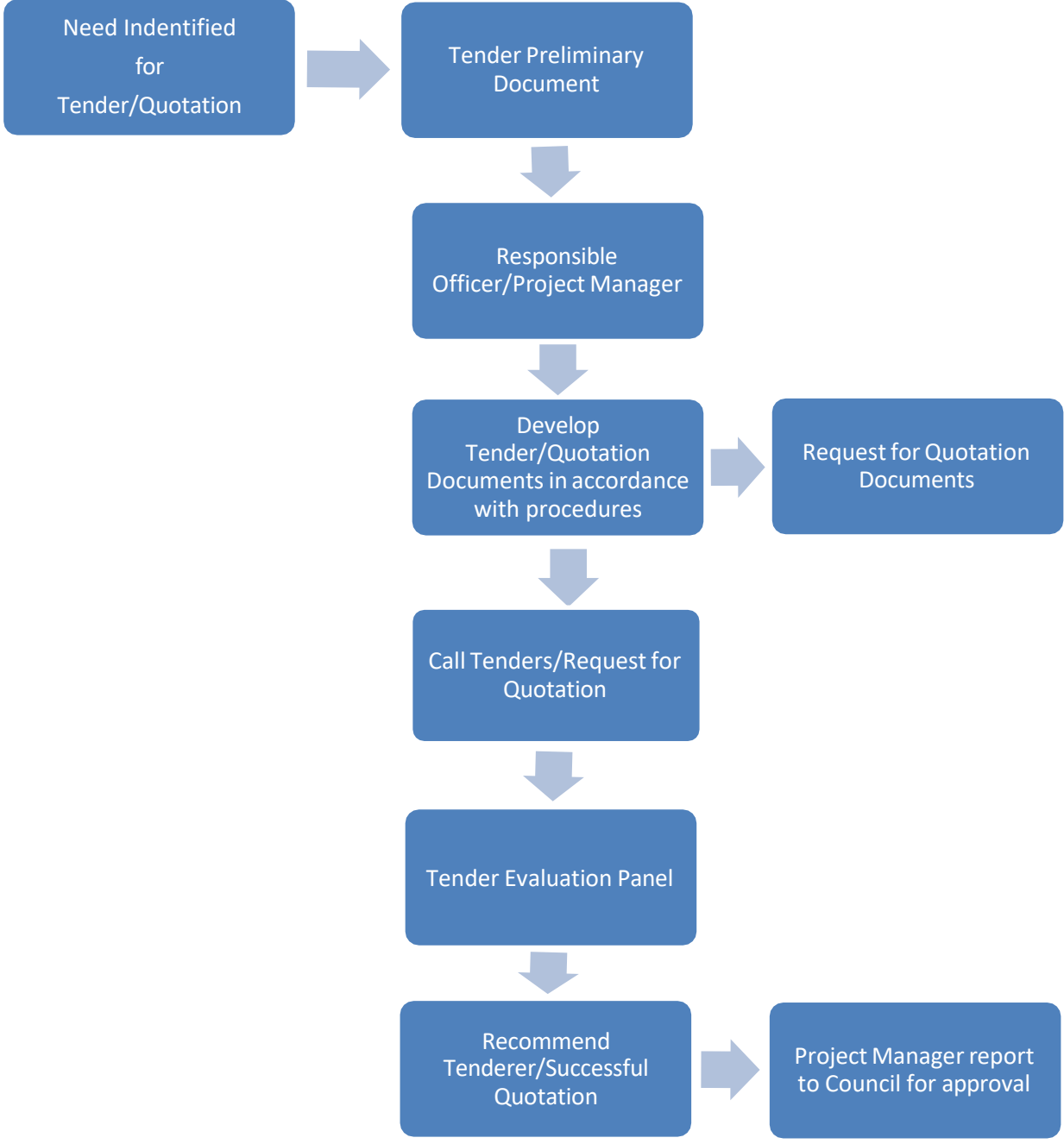
12. POLICY APPROVAL

This policy was approved at the ordinary council meeting held on 26 July 2023, resolution number 16/07.2023/C.

Blake Repine
General Manager

Disclaimer

That this policy be read in conjunction with any or all other Council and/or Management Policies.



TENDER CHECKLIST

Contract Name		Contract No	
----------------------	--	--------------------	--

1. Project Description

2. Estimated Cost of the Project and Funding

3. Define Options

4. Approval

5. Managing the Project

6. Reporting

7. Tender Advertisement

8. Tender Evaluation

Criteria	Weighting*
<i>Previous experience</i>	15%
<i>Local Business</i>	5%
<i>Social Enterprise/Not-for-profit</i>	5%
<i>Indigenous Owned Business</i>	5%
<i>Proposed Construction Program</i>	20%
<i>WHS Policy, Procedures and Record</i>	15%
<i>Price</i>	35%
TOTAL	100%

***Weighting will vary to suit circumstances. For example, if no local businesses, social enterprise/not-for-profit or Indigenous owned businesses submit tenders, then the total score will only be made up from the remaining areas.**

Prepared by Date

Approved by *Project Manager* Date

B - CHECKLIST FOR TENDER DOCUMENT COMPILATION

Contract Name:		Contract No:	
-----------------------	--	---------------------	--

- | | Yes | No |
|--|--------------------------|--------------------------|
| 1. Confirm that all documents Compilation. | | |
| Existing drawings | <input type="checkbox"/> | <input type="checkbox"/> |
| Original drawings | <input type="checkbox"/> | <input type="checkbox"/> |
| Site establishment drawing | <input type="checkbox"/> | <input type="checkbox"/> |
| General conditions of contract AS 2124 – 1992 | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Type of Contract payment clearly indicated (e.g. SOR, Lump Sum) | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Schedule of Quantities/Schedule of Rates confirmed | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Security of documentation assured | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. “Appropriate Person” designated to supervise the tender process | | |
| Name _____ | | |
| Position _____ | | |
| 6. Person assigned to respond to tender queries. | | |
| Name _____ | | |
| Position _____ | | |
| | Yes | No |
| 7. Tender evaluation panel installed, tender appraisal criteria determined and transferred to tender assessment forms. | <input type="checkbox"/> | <input type="checkbox"/> |
| Names and comments: _____ | | |
| _____ | | |
| _____ | | |
| 8. Documentation compiled by: | | |
| 9. Documentation Checked and Approved: | | |

Signed: _____

Date: _____

C - CHECKLIST FOR TENDER ADVERTISING

Contract Name		Contract No	
----------------------	--	--------------------	--

- | | Yes | No |
|--|--------------------------|--------------------------|
| 1. Project reviewed and approval to advertise: | | |
| Verbal Quotations | | |
| Estimate < \$30,000 (excl. GST) | | |
| Approval by Manager | <input type="checkbox"/> | <input type="checkbox"/> |
| Written Quotation | | |
| Estimate > \$30,001 (excl. GST) | | |
| Approval by General Manager | <input type="checkbox"/> | <input type="checkbox"/> |
| Public Tender | | |
| Estimate > \$250,000 or more (excl. GST) | | |
| Approval by the Council | <input type="checkbox"/> | <input type="checkbox"/> |

2. Advertising requirement

Dates _____ Medium _____

- | 3. Advertisement | Date |
|-------------------------------------|--------------------------------|
| Create advert | <input type="checkbox"/> |
| Submit to Newspaper(s) | <input type="checkbox"/> |
| Confirm Proof provided by Newspaper | <input type="checkbox"/> |
| Submit to Website | <input type="checkbox"/> |

Name _____

I have reviewed the entries on this checklist and certify that Council is justified in advertising tenders for the subject contract in the methods and on the dates described above.

Signed _____ Date _____

Project Manager

D - CHECKLIST FOR RECEIPT OF TENDERS

Contract Name		Contract No	
----------------------	--	--------------------	--

Tender Period

1. List of Tenderers names, addresses and date of collection.
2. Supplementary notices sent to all Tenderers.

Tender Opening

3. Personnel present at Tender Box opening

Appropriate Person	<u>Name</u> _____
Other	<u>Name</u> _____
Other	<u>Name</u> _____
	<u>Date</u> _____ <u>Time of Day</u> _____

Satisfactory Action Taken

	<i>Yes</i>	<i>No</i>
4. Secure filing of Tenders	<input type="checkbox"/>	<input type="checkbox"/>
5. List of Tenderers' prices without appraisal	<input type="checkbox"/>	<input type="checkbox"/>
6. Standard acknowledgement letter sent to Tenderers	<input type="checkbox"/>	<input type="checkbox"/>

Preliminary Assessment

7. Conformity of Tenders checked and recorded	<input type="checkbox"/>	<input type="checkbox"/>
Lodged on time	<input type="checkbox"/>	<input type="checkbox"/>
Lodged in accordance with instructions	<input type="checkbox"/>	<input type="checkbox"/>
Tender Submission Documents all provided	<input type="checkbox"/>	<input type="checkbox"/>
All documents signed as required	<input type="checkbox"/>	<input type="checkbox"/>
OHS information provided	<input type="checkbox"/>	<input type="checkbox"/>

If "No", describe.....

.....

8. Requests for supplementary details determined and actioned

If "No", describe.....

.....

9. Mathematical price extensions verified correct or reported

If "No", describe.....

.....

Checklist completed by:

Signed _____

Date _____

10. Documents provided to Tender Evaluation Panel

Delivery Date: _____

E - CHECKLIST FOR TENDER ASSESSMENT
(One page for each Tender)

Contract Name		Contract No:	
----------------------	--	---------------------	--

1. CONTRACTOR'S DETAILS

Name		Contact Person	
Address		Telephone	

2. TENDER EVALUATION PANEL NOMINATION AND DECLARATION

PANEL MEMBERS NAME	CONFLICT OF INTEREST		IF YES, SPECIFY	SIGNATURE
	YES	NO		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		

3. ISSUES FROM PRELIMINARY ASSESSMENT

.....

.....

.....

4. THE EVALUATION PANEL FINDS THIS TENDER:

conforming nonconforming

5. NOMINATION & DECLARATION ACKNOWLEDGMENT

I acknowledge the record above regarding conflict of interest for the tender evaluation panel and conformity with regard to the tender received.

Signed _____ Date _____
Project Manager

G - TENDER ASSESSMENT REPORT

Contract Name		Contract No	
----------------------	--	--------------------	--

Tender Evaluation Panel

Name _____ Position _____

Name _____ Position _____

Name _____ Position _____

Tender	Consensus Assessment Points (Total)	Summary Comment
1.		
2.		
3.		
4.		
5.		
6.		

Tender Evaluation Panel Recommendation

It is recommended _____

Signed 1. _____ **Date:**

2. _____ **Date:**

3. _____ **Date:**

Documentation issued to Purchase Audit Committee for review



H - CHECKLIST FOR TENDER EVALUATION PANEL (TEP)

Contract Name		Contract No	
----------------------	--	--------------------	--

PRE-TENDER REVIEW

Tender reviewed by TEP in relation to:

Purchase and evaluation process adopted.

Yes No

Consideration for local business.

Signed _____ Date _____

Signed _____ Date _____

Signed _____ Date _____

POST-TENDER REVIEW

Evaluation supported by TEP and due process followed:

Yes No

Signed _____ Date _____

Signed _____ Date _____

Signed _____ Date _____

Project Manager