

PROCUREMENT AND CONTRACT APPROVALS OPERATING GUIDELINE

29 April 2022

Administration

PARENT DOCUMENT: PROCUREMENT POLICY

PURPOSE

1. Introduction

1.1. This Operating Guideline ("Guideline") supports delivery of the Procurement Policy.

The purpose of this Guideline is to provide information regarding the approval processes for procurement and contract activities - it covers authorisations to commit funds, award Contracts, execute Contracts, make payment or amend Contracts.

Delegations demonstrate accountability and that procurement and Contract activities are dealt with at the appropriate level.

No monies may be spent unless the expenditure has been provided for in the budget approved by Council and funds are available.

All amounts expressed in this Guideline are GST exclusive.

1.2. List of Covered Documents and Activities

The following are the list of documents and activities which are controlled by this Guideline:

Contract Award	Non-Disclosure Agreements
Contract Execution	Petty Cash
Contract Variations	Bank Guarantees and associated drawdowns
Contract termination	Purchase Requisitions/Purchase Orders
Purchasing Co-Operatives (eg, LGAP, Procurement Australia)	Signing and Sealing of all contracts
Invoice Approvals	Staff Reimbursements
Letters of Engagement	Purchase Cards

1.3. Exempt Documents

The following items have an exemption from the normal financial delegation levels due to the nature of the transaction:

Payment Type	(\$m)	Frequency	Certification
Investment/loan transactions within existing approved facilities		As required	Chief Operating Officer Manager Finance & Procurement
Loan drawdowns/loan repayments (loan facility with redraw facility)			Team Leader – Financial Planning and Reporting

Workers Compensation Premiums	\$3m	Annual	Chief Operating Officer
Payroll	\$2.2m	Weekly	Any two transactional banking signatories
Insurance premiums	\$2.5m	Annual	Manager Finance & Procurement
Superannuation payment	\$1m	monthly	Team Leader – Financial Planning and Reporting
Taxation payments	unlimited	monthly	Manager Finance & Procurement
Regulatory payments (eg Landscape Levy)	\$1m	Quarterly	Team Leader – Financial Planning and Reporting

Property Leases & Deeds and Employment contracts are not covered by these guidelines, refer to delegation register.

Other powers and functions delegated to the Chief Executive Officer and/or Council Officers exist within Council which do not form part of this Guideline, please refer to the Delegation Register.

OPERATION

2. Roles and Responsibilities

The primary responsibilities and accountabilities in relation to procurement and Contract approvals rest with the:

Level of Authority	Associated Approver Roles
Level 1	Council
Level 2	CEO
Level 3	Directors Chief Operating Officer Managing Director AEDA ACMA Board
Level 4	Associate Directors Executive Managers General Manager RMMA General Manager ACMA
Level 5	Managers
Level 6	Team Leaders Project Managers Project Leads

Delegations are directed at positions/titles rather than at individuals and extend to those acting in positions.

2.1. Roles and Responsibilities for Procurement and Contract Approvals Authority

The Procurement and Contract Approvals Authority is separated into three elements:

- a) the Financial Delegated Authority which sits with the budget holder and is the authority to approve budget expenditure and Contract Award; and
- b) the Contract Execution Authority for procurement contracts which sits with the Procurement and Contract Management team and is authority to sign the Contract and make it legally binding on Council; and
- c) the Contract Execution Authority for non-procurement Contracts which sits with authorised Council Officers and is authority to sign the Contract and make it legally binding on Council.

This separation of duties takes place because the programs are considered best placed to understand their budgets whereas Procurement and Contract Management is best placed to determine the appropriate Contractual terms and conditions. All non-procurement related Contracts (Council or Third Party drafted) either by Procurement and Contract Management or another appropriately skilled Council Officer.

Refer to **Appendix 1 of this Guideline** for a detail of the Procurement and Contract Approvals Authority-the **Delegation Schedule**.

2.2. Council

The Chief Executive Officer has delegated authority for up to \$2,000,000 under the Procurement Policy, provided the expenditure is within Council approved budget.

The Council will also consider the procurement of goods and services through the provision of a Forward Procurement Report. This report will be presented to Council every quarter as a minimum, The Lord Mayor and the Chief Executive Officer will sign all Sealed Documents where Council has resolved to affix the Common Seal.

2.3. Corporate Purchase card holders have delegated authority, provided it is within Council approved budget to:

- Purchase goods and services up to the transaction limit of the purchase card.
- Please refer to the full list of Purchase Card Delegation (ACC2021/190468) and the Corporate Purchase Cards Operating Guideline

2.4. Technology Solutions

To ensure that all information management hardware and software are compatible and purchased in accordance with Council's information management strategy, the Manager, Information Management (or delegate) must approve all IT software and hardware purchases. IT software or system enhancements are required to be approved through the Business Systems Continuity Group. This approval is in addition to the relevant Financial Delegated Authority approval required from the budget holder in accordance with the Delegation Schedule.

2.5. Project Spend

To ensure that all project spend are in accordance with Councils Project Governance Framework, the Program Management Office are to be referred to where appropriate to ensure project approvals are confirmed. This approval is in addition to the relevant Financial Delegated Authority approval required from the budget holder in accordance with the Delegation Schedule.

2.6. Contract Execution Authority–Procurement and non-procurement contracts

The Contract Execution Authority is not an authority to approve budget expenditure and award a Contract. This authority is used to make a document legally binding on the parties and may only be exercised after Contract Award approval has been obtained. The contract execution levels are outlined in the **Appendix 1 Delegation Schedule**.

2.7. Calculating the value of a Contract

For the avoidance of doubt, the following section defines what makes up the total value of a Contract which is being approved by an Approver:

2.7.1. Whole of Project/Service Cost

The Contract value should take into consideration all costs (excluding trade-ins) where appropriate including: purchase costs, set-up, design, construction and installation costs required for implementation where these are with the same tender.

2.7.2. Periodic Price Increases

Where applicable for a longer term periodic contract the Contract value may include periodic rate/price increases over the entire life of the Contract and if rate increases are to be negotiated an increase will be calculated as per the Consumer Price Index (All groups) for Adelaide as published by the Australian Bureau of Statistics as per the previous quarter at each period should be assumed.

2.7.3. Taxes, Fees, Levies & Other Charges

The Contract value should be exclusive of GST. Any other taxes, fees, levies or other charges should be included in determining the Contract value if they are payable by the Council.

2.7.4. Contract Term

The Contract value should encompass the cost of the entire life of the Contract including the initial Contract term and options for extension (renewals) for example. 3 Years + 1 year + 1 year = 5 years.

Where the Contract has a perpetual term, 3 years is to be used.

a) Where it is a Lump Sum Contract

The following should be included in the calculation of the Contract value:

The agreed lump sum at the time of Contract Award and the budgeted or forecasted amounts for any subsequent years where options for extension (renewals) have been determined.

Any Project Contingency (if applicable) up to 10% of the total value of the Contract.

Forecasted amounts may be calculated from previous expenditure and/or other information available.

b) Where it is a Schedule of Rates (Standing Offer) Periodic Supply of Goods or Services Contract

The following should be included in the calculation of the Contract value:

The Council's budgeted amount for the financial year and the budgeted amount for any subsequent years. Where no budgeted amount for subsequent years is defined, the budgeted amount for the most current financial year multiplied by the number of subsequent years for the Contract including all options for extension (renewals) shall be used to determine the total contract value and executed by the Manager Finance and Procurement.

2.8. Authority to approve Contract Variations (including Contract extensions)

Approval for a Variation to a Contract is required from an Approver where the Contract value increases from the pre-approved Contract value ("**Financial Variation**"). The Approver's

delegation limit must be equal to or greater than the original Contract value plus all Variation amounts.

Where a Variation to a Contract is required that does not impact the Contract value, no approval is required from an Approver but only the Associate Director ("**Non-Financial Variation**").

2.8.1. Non-Financial Variations –

Non-financial variations must be approved by Financial Delegate of the program whose budget funds the costs of the Contract.

The following are Non-Financial Variations:

Renewal of Contract Term based on pre-approved options for extension (eg utilising a + 1 option) even if spend for the period of the Contract extension is above the delegated authority level (because options have been previously approved by appropriate level);

Change to Contract terms and conditions where there is no financial impact (eg adjustment to a Contract clause); and

Extension of time where there is no financial impact and does not affect the achievement of Council's strategic objectives (eg requiring additional time to complete the Contracted works).

2.8.2. Financial Variations – Requires approval from a delegated authority

The following are Financial Variations:

Additional works (where additional spend is required), latent conditions, change of scope where additional funds must be committed and have not been pre-approved in the Contract value (these may also require an extension of time).

2.9. Using the financial delegation for authorisations

Before authorising a commitment of expenditure (requisition, invoice, purchase card transaction or Contract Award), an Approver needs to ensure:

activity and natural account is correct with adequate funds within the Council approved budget;

they have authority of a sufficient level to authorise the expenditure; and

that the Procurement Policy and relevant Operating Guidelines have been followed (eg approaching the market for required number of quotes).

Additionally, before authorising a tax invoice for payment, a Council Officer needs to ensure that the goods or services have been provided in accordance with the order or Contract and that the price is as agreed.

Approvers should note that, in accordance with probity principles and ethical tendering practices, the Council is legally obligated to award the Contract on the basis of the results of the application of the Tender evaluation criteria as were notified in the original Tender package. The Approver therefore has three options with regards to the Contract Award, those being to either:

resolve to award in accordance with the recommendation of the Tender evaluation panel;

defer the decision and seek further clarification; or

decide not to award and abandon the Tender process.

2.10. Using Contract Execution Authority

2.10.1. In exercising Contract Execution Authority for Contracts relating to a procurement activity, the delegated Council Officer should ensure that:

- Contract Award approval has been obtained from the appropriate Approver;
- the purchase complies with the Council's policies and relevant procurement Operating Guidelines;
- an assessment and management plan of the business being conducted has been completed where appropriate (including the commercial and technical risks);
- the form of Contract is appropriate for the type of purchase; and
- any amendment required has been agreed between the parties and the appropriate documentation has been completed.

2.10.2. In exercising Contract Execution Authority for non-procurement contracts, the delegated Council Officer should ensure that:

- appropriate authority has been received to enter the relevant arrangement;
- the Contract has been appropriately reviewed (whether drafted internally in Council or by a third party), either by a Council Officer within the Procurement and Contract Management team or another appropriately skilled Council Officer as required; and
- there is approved budget if spending (i.e. sponsorship funds).

2.11. How to obtain Approver Authority

The Procurement & Contract Management team will provide training based upon the employee's role to enable the Council Officer to fulfil Approver duties.

The Manager Finance & Procurement must approve any requests by a Council Officer who wants to obtain a non-standard Approver Authority level outside of those listed in **Appendix 1 Delegation Schedule**

2.12. Sealing Process

All documents requiring the Common Seal to be affixed, as specified in legislative requirements, must be sent to the Governance Team accompanied by a "Sealing Legal Documents" form, which can be found on the intranet, completed in full, and signed by both the document initiator and their Associate Director or Director or Chief Operating Officer.

OTHER USEFUL DOCUMENTS

Related Documents

This Guideline is one of four operating guidelines that support the Procurement Policy. The other three applicable operating guidelines that should be read in conjunction with this Guideline are:

- Procure to Pay Operating Guideline;
- Corporate Purchase Card Operating Guideline and
- Sourcing and Contract Management Operating Guideline.

Relevant Legislation

- *Local Government Act 1999(SA) s49*
- *Real Property Act 1886 (SA) ("RPA") – Section 270*
- *Law of Property Act 1936 (SA) – Section 41*
- *Freedom of Information (Miscellaneous) Amendment Act 2004 (SA)*

GLOSSARY

Throughout this document, the below terms have been used and are defined as:

Adelaide Economic Development Agency (AEDA): Means the subsidiary of The Corporation of the City of Adelaide.

Adelaide Central Market Authority (ACMA): Means the subsidiary of The Corporation of the City of Adelaide.

Addendum: A written amendment to a Contract or Tender document.

Approver: Each Council Officer with Financial Delegated Authority.

Bank Guarantee – Security against a Contract, secured by a Supplier from a financial institution

Common Seal: A seal which is affixed to a Contract under specific conditions.

Consultant: A consultant is someone who provides advice without direction from Council for Council's consideration. Council will then make a decision to either accept and implement or reject the advice (eg architects doing concept proposals; business reviews, etc.).

Contract: A legal document detailing the terms and conditions of Council's purchase from a Supplier and includes a Purchase Order.

Contract Award: Acceptance of offers or Tenders by Council and awarding of a Contract to the successful bidder.

Contract Execution Authority: The authority to execute legally binding Contracts on behalf of the Council, or to amend existing Contracts, following Contract Award by the Approver.

Council Officer: Any employee, contractor, or temporary member of staff working for, or on behalf of, the Council.

Contract Variations: Contract Variations include Financial Variations and Non-Financial Variations as defined in paragraph 3.13.1

Delegation Register: The delegation register is located on the intranet and lists those delegations which are approved by Council as per the *Local Government Act*.

Financial Delegated Authority: The authority to approve procurement processes and Contract Award up to certain monetary limits.

Forward Procurement Report: A quarterly report to Council for all procurement activities over \$4m

Purchase Card A card which can be used to purchase goods and services in advance of payment.

Purchasing Co-Operatives: Any government co-operative purchasing group, including but not limited to LGAP and State Government Panels.

Purchase Order: A legal document used to communicate an offer to buy to a Supplier and that includes the Council's terms and conditions of purchase.

Quotation: An informal invitation to Third Parties for the supply of goods/services/works to the Council.

Revenue generating contract: A Contract which generates a revenue back to Council.

Requisition (or Purchase Requisition): Internal financial control document to gain approval for identified spend.

Requisitioner / Requestor: A Council Officer who has identified a need to purchase goods or services from a Third Party.

Sealed Document: A document which requires the Common Seal to be applied.

Supplier: Any person Contracted to supply goods, services or works to the Council.

Tender: A structured formal invitation to Third Parties for the supply of goods/services/works to Council. Is mandated for all procurement activities above \$150,000.

Staff Reimbursements: A reimbursement to staff for work related expenses paid out of their own pocket.

Variation: A request from a Supplier to alter an aspect of their Contract. A Variation request from a Supplier that is approved by Council should be captured in writing as an Addendum to the Contract.

ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed two years unless legislative or operational change occurs beforehand. The next review is December 2023.

Review History:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2022/3766	CEO	29/04/2022	Addition of Financial Delegation appendix
ACC2022/3745	CEO	14/12/2021 21480	Council decision to alter the CEO delegation to \$2m from \$4m
ACC2021/183970	CEO	19/11/2021	Alignment with Procurement Policy for thresholds, removed Call-in process, simplified document, incorporated AEDA and ACMA
ACC2020/11505	Associate Director Strategic Finance and Performance	20/07/2020	Version 1.6
ACC2019/76152	Associate Director Finance and Procurement	01/07/2019	Version 1.5
ACC2017/120634	Associate Director Finance & Businesses	30/06/2017	Version 1.4
ACC2014/192867	GM	15/09/2014	Version 1.3
ACC2012/71073	CEO	02/05/2012	Version 1.2
ACC2010/172815	CEO		Version 1.1
ACC2010/172815	ELT	02/03/2011	Original

Contact:

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Appendix 1 Delegation Schedule - Finance and Contract Execution Delegations –September 2021

Financial Delegation Ex GST	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6
Contract Award (including Variances & Termination)*: Goods and Service Suppliers	>\$2,000,000	≤\$2,000,000	≤\$1,000,000	≤\$250,000	≤\$100,000	≤\$50,000
Contract Award*: Consultants (Advisory)	>\$2,000,000	≤\$2,000,000	≤\$1,000,000	≤\$50,000		
Contract Award* Revenue generating	>\$2,000,000	≤\$2,000,000	≤\$1,000,000	≤\$250,000	≤\$100,000	
Non Financial Variations		Yes	Yes	Yes	Yes	
Purchase Orders		Unlimited**	≤\$1,000,000	≤\$250,000	≤\$100,000	≤\$50,000
Petty Cash	≤\$20	≤\$20	≤\$20	≤\$20	≤\$20	≤\$20
Staff Reimbursements		≤\$2,000,000	≤\$1,000,000	≤\$250,000	≤\$100,000	≤\$50,000

The chart above summarises the responsibilities and delegations against each of the positions throughout the Contract Process. The above delegations are **exclusive of GST**.

Notes * Refer to Section 3.8 of this document to ensure correct value calculation.

** Unlimited level for the Level 2 is directly related to the delegation of all expenditure within budget to the CEO as per the delegation register.

Contract Execution	Level 1	Level 2	Level 3	Level 4	Level 5	Manager Finance and Procurement	Team Leader Procurement and Contract Management	Procurement and Contract Management Advisors
Approval to affix common seal	Any							
Approval to include FOI confidentiality clauses in Agreements		Any						
Authority to enter into Purchasing Co-operatives		Any	Any – COO only			Any		
Contract execution of a Procurement Activity						Any	≤\$1,000,000	≤\$500,000
Contract execution of a non- procurement agreement e.g Grant, Sponsorship, etc		≤\$2,000,000	≤\$1,000,000	≤\$250,000	≤\$100,000	Any	≤\$1,000,000	

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