



TENDERING POLICY

JUNE 2007



Holroyd City
Built Around People

TENDER FILE

Tender: Open / Selective
(Cross inapplicable)

Staff Participating in Tender	Name
Preparation	
Advertising	
Issuing Documents	
Closing of Tender	
Any Conflicts of Interests Declared?	
Any written communication between tenderers and staff?	
Tender Evaluation	
Tender Review Panel	
Council Approval	Date

Note: Retain complete and comprehensive records of all tenders, evaluations and any negotiations as well as the contract itself.

TENDERING POLICY

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TENDERING POLICY

INTRODUCTION

Council deals with the private sector in providing a wide range of works and services to the community by contract. It is important to demonstrate to all who do business with Council that proper procedures are in place to obtain the best value for public money, while observing fairness and impartiality in awarding contracts.

The establishment of proper tendering policy enhances the reputation of Council by reducing the risk of corruption and the wastage of time and public money.

The purpose of the Tendering Guidelines is to document the procedures to be followed in the tendering process so as to meet the standards of probity and value for money referred to above and to ensure compliance with legislation and all applicable codes and standards.

In order to achieve uniformity and consistency throughout the organisation, the guidelines cover the following aspects of tendering:

- justification for acquisition of assets or other major contract expenditures and their
- inclusion in the Management Plan and Budget
- preparation, invitation, evaluation and acceptance of tenders
- compliance with legislation and probity requirements
- contract documents

These guidelines shall be followed in all instances involving contracts for expenditure of \$120,000 or more; when otherwise required to call tenders under Section 55 of the Local Government Act, 1993; and when it is decided to call tenders with a view to obtaining the most benefit for Council.

This policy document should not be released outside the Council without the prior permission of the General Manager.

ETHICAL CONSIDERATIONS

In purchasing and tendering under the Local Government Act 1993 and the Local Government (General) Regulation, 2005 all staff are obliged to maintain a very high ethical standard. The ethical considerations are also emphasised by the Code of Tendering – Australian Standards, Code of Practice in the Construction Industry and guidelines issued by the ICAC.

In adopting ethical practices we must consider the following:

- The interest of the Council in all transactions and to carry out the tendering and purchasing policies and procedures
- To purchase and to tender without prejudice and to seek value for dollar
- To be absolutely honest in all dealings with suppliers
- To provide prompt and courteous services to all suppliers without prejudice
- To consistently adopt good business practice
- To promptly bring to the attention of management any malpractice that occurs within or outside the Council in relation to purchasing and tendering.
- To be aware that according to the Holroyd City Council Code of Conduct, staff cannot demand or request any gift, benefit, travel or hospitality for yourself or anyone else in connection with purchasing and tendering.
- To inform the suppliers that they should not offer any form of inducement by way of gift, benefit, travel and hospitality which would be perceived as influencing a decision in their favour.

GUIDELINES FOR ENVIRONMENTALLY SOUND PURCHASING PRACTICES

Under our State of Environment Report 2002 to 2006 Council has made a commitment to:

“Look strategically at its initiatives in any particular area of the environment in order to identify gaps and future directions”

In keeping with Council’s commitment and *the “Avoid, Reduce, Reuse and Recycle/Reprocess”* ethos, Council has developed the following environmental purchasing guidelines to help staff in integrating Environmentally Sustainable Development principles into the purchasing of goods and services.

Purpose

To provide a purchasing framework that will advance the sustainable use of resources. Council will demonstrate to the community that the purchasing decisions of our employees can improve markets for recycled products, enhance environmental quality and be resource responsible. We prefer the purchase of local recycled and environmentally preferable products whenever they perform satisfactorily and are available at a reasonable price.

Definitions

Environmentally preferable products are products that don’t have a negative impact on human health and the environment when compared with competing products. This comparison may consider the source of raw materials, production, manufacturing, packaging, distribution, potential for reuse and recycling, operation, maintenance, or disposal of the product.

Recycled materials are materials that have been reprocessed from recovered material by means of a manufacturing process and made into a final product or into a component for incorporation into a product.

Recycled products are materials that have been recovered, processed and used as a raw material for the manufacture of a useful new product through a commercial process. These products will contain a specified percentage of material that would otherwise have been disposed of as wastes.

Re-manufactured means to renew or restore a used product into its original form or into a useful new product through a commercial process.

Sustainable use of resources is a use that meets the present needs of the purchaser while also taking into account external and future costs, including costs to the environment and depletion of resources.

Purchasing Goals

Whenever possible, Council employees and contractors will pursue the following goals and adhere to the specified principles when purchasing products, materials and services.

- A. Zero Waste:
 - Purchases shall be only made once it has been determined that the product or service is necessary.

- Purchasing decisions shall be made in the context of the waste hierarchy to reduce, reuse and recycle.
- REDUCE – Using less in the first place and avoiding waste. Examples of this include purchasing in bulk to reduce packaging and the purchase of printing equipment that prints double sided.
- REUSE – Using the same item more than once, and extending the useful life of products and equipment before replacing an item. Aim to re-use or repair an existing product. Ensure that new purchases are durable, have a long service life and are easy to maintain and upgrade.
- RECYCLE – Purchase products that contain recycled materials or those that have or can be re-manufactured.

B. Zero Climate Damage:

- Purchase energy efficient products and materials by checking that the energy rating and efficiency features are the best available for the price.
- Purchase materials and products that are free of toxic or polluting materials.
- Purchase renewable energy and reduce the purchase of fossil fuels.
- Purchase goods that have not been transported long distances.

C. Zero Habitat Destruction:

- Purchase paper and wood products obtained from recycled, plantation, salvaged or renewable sources.

D. Zero Pollution:

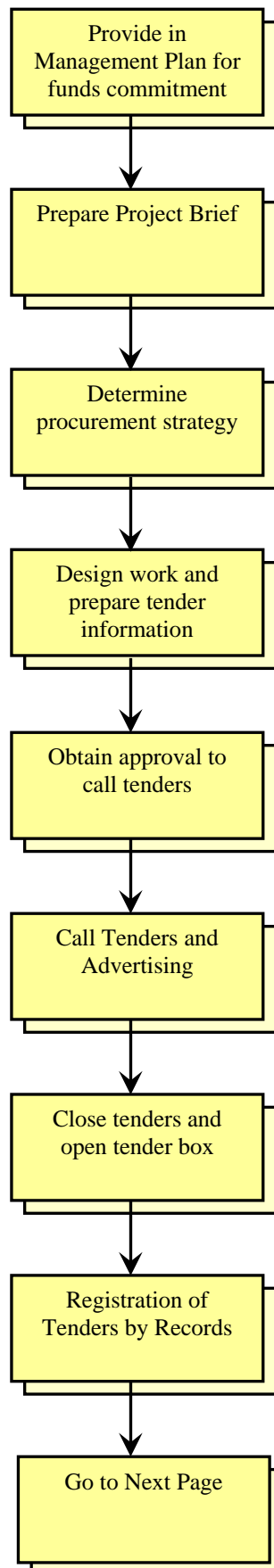
- Purchase products and materials that will not release toxic substances that can pollute water, land or air at any stage of their life cycle.

E. Zero Soil Degradation:

- Purchase products, materials and services that will not degrade or pollute the soil, or result in erosion through their use.

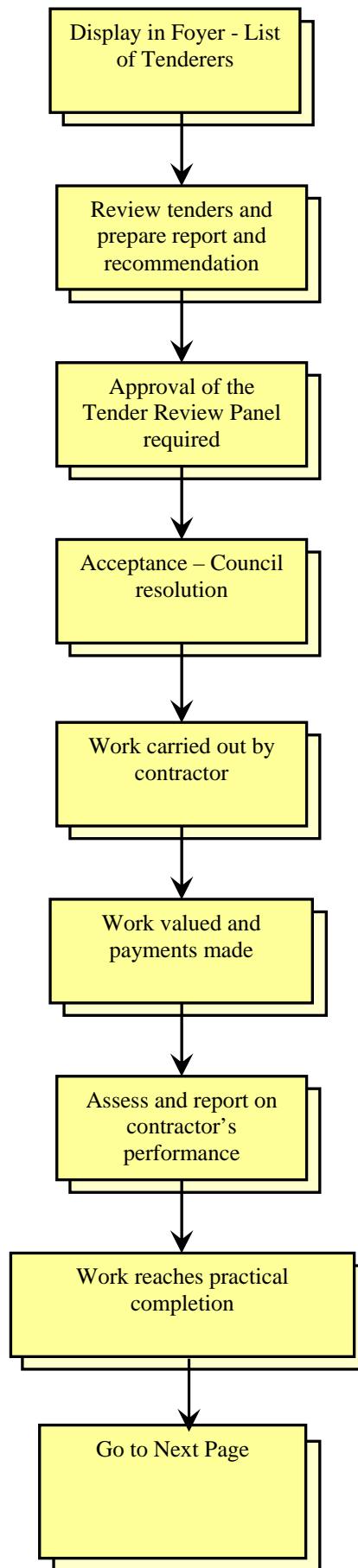
TENDERING AND CONTRACT FLOWCHART

(Source: Capital Project Procurement Manual)



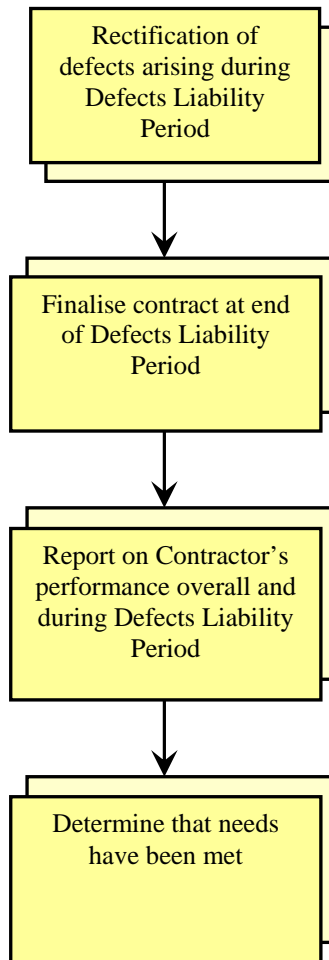
TENDERING AND CONTRACT FLOWCHART (cont)

(Source: Capital Project Procurement Manual)



TENDERING AND CONTRACT FLOWCHART (cont)

(Source: Capital Project Procurement Manual)



TENDERING POLICY

1 GENERAL REQUIREMENTS

- **Requirement to Call Tenders**

Under the provisions of Section 55 of the Local Government Act, 1993, Council must invite tenders before entering into contracts for any of the following:

- ◆ carrying out any work
- ◆ performing a service or providing facilities
- ◆ providing goods or services to Council
- ◆ disposal of property other than land
- ◆ instalment contracts over a period or two or more years

The terms “works”, “services” and “facilities” include the acquisition and replacement of assets and the construction of assets under Council’s capital works program.

An exhaustive list is provided in Section 55(3) of the Act of those contracts which do not require the prior calling of tenders. The two main exceptions are contracts for goods, materials or services specified by the State Contracts Control Board or the Commonwealth Department of Administrative Services and contracts involving an estimated expenditure or receipt of an amount of less than \$150,000.

Other exceptions are contracts with the Crown or another Council; purchase, sale or lease of land; purchase or sale at auction; employment contracts and exemptions under other legislation. Council may by resolution decide not to call tenders in cases of emergency or if a satisfactory result would not be achieved by calling tenders.

- **Applicable Legislation Codes and Standards**

Tendering procedures are governed by the requirements of the following legislation, tendering codes and standards. Members of staff dealing with tenders and contracts should be familiar with those documents:

- ◆ Local Government Act, 1993 (Section 55)
- ◆ Local Government (General) Regulation, 2005
- ◆ Code of Tendering - Australian Standard AS 4120 -1994
- ◆ Code of Practice and Code of Tendering for the Construction Industry - Department of Local Government Practice Note No. 8(a)
- ◆ Practical Guide to Corruption Prevention (ICAC) Module 12 – Purchasing in instances where requirements may differ, the provisions of the Local Government (Tendering) Regulation must take precedence over the standards.

- **Tendering Methods**

Clause 7 of the Tendering Regulation specifies the tendering methods available to Council. The method must be employed which is best suited to the project to be undertaken.

Open tenders under Clause 8 of the Tendering Legislation are tenders invited by public advertisement where any tenderer may bid for the work. Open tendering is appropriate when there are many contractors in the field and Council knows the market. The advantage of this form of tendering is that market pressure from a wide field of tenderers can force the best price out of the system.

Selective tenders for a particular contract are dealt with in Clause 9 of the Tendering Regulation. After inviting expressions of interest by public advertisement from those interested in tendering for a particular contract, tenders are invited from those who best meet the required criteria. This form of tendering is appropriate when Council is unsure of the market or the availability of contractors specialising in the work required. The advantage of this form of tendering is that Council is only dealing with a small number of tenderers with proven ability at a lower cost both to Council and the industry.

Clause 10 of the Tendering Regulation enables Council to use the selective tendering method for particular kinds of proposed contracts. After inviting expressions of interest by public advertisement from those interested in tendering for contracts of that kind, Council prepares a list of suitably qualified tenderers. Selected contractors from that list are invited to tender for proposed contracts. This form of tendering is appropriate for regular and routine works, goods or services and has similar advantages to those outlined in 1.3.3 above.

As an alternative to preparing a list of recognised contractors in accordance with Clause 10 of the Tendering Regulation Council may adopt a list of contractors prepared by another public authority following a public advertisement calling for expressions of interest. (Clause 10(8))

- **Confidentiality**

Council is required to take all practical steps to ensure the confidentiality of tender information. Information contained in a tender or related document must not be disclosed to any person without the permission of the tenderer. This does not apply to disclosure of information, which is lawfully made for the purposes of the Act or the Tendering Regulation.

Section 664 of the Act makes it an offence for a person to disclose information obtained in connection with the administration or execution of the Act except where that disclosure is made in certain specified circumstances. One of the intended effects of that section is to preserve the confidentiality of tender documents submitted by tenderers.

Clause 4.2 of the Code of Tendering (Practice Note 8(a)) requires that Council must preserve, throughout the tendering process, the confidentiality of information, particularly intellectual property. This precludes the disclosure to any person of commercial information, documents under copyright, detailed alternatives and comparable prices for alternative proposals, the names of persons who have requested tender documents and trade secrets.

- **Delegations of Authority**

Responsibilities for the tendering function are governed by the delegations of authority made by the General Manager to staff members.

The General Manager has delegated authority from Council to carry out all the functions of Council made under the Local Government (Tendering) Regulation other than: -

- ◆ the acceptance of tenders which Council is required to call under the
- ◆ Local Government Act, and
- ◆ the shortening of the tender period under Clause 12 of the Tendering Regulation

Authority has been sub-delegated by the General Manager to all Directors to carry out the following functions in their areas of responsibility:-

- “To carry out the following tendering functions in accordance with the requirements of the relevant legislation and Council’s tendering policies:
 - to call (but not determine) public tenders, when required to do so under the tendering legislation, for the provision of goods and services.
 - to call tenders when not required to do so under the tendering legislation if the delegate is of the opinion that the calling of tenders is appropriate as the best means of testing the market; and
 - to determine the appropriate tendering method to be employed as provided under Clause 7 of the Tendering Regulation; and
 - to extend, (but not shorten), the deadline for receipt of tenders as provided in Clause 13 of the Tendering Regulation.”
 - Applications to the General Manager or a Directors, as the case may be, for approval to call tenders must show: -
 - ◇ the purpose of the tender;
 - ◇ estimated value of contract;
 - ◇ items to be sold or traded-in;
 - ◇ availability of funds, covering vote and method of financing the purchase;
 - ◇ whether circumstances have changed since the proposed purchase was included in the Management Plan;
 - ◇ in the case of purchases not included in the Management Plan the authority for the proposed contract;
 - ◇ the recommended method of tendering.

A copy of the approval must be placed on the relevant contract file.

- For the purposes of clause 4 of the Tendering Regulation the Manager Administrative Services has been designated as the **Appropriate Person**.
- For the purpose of the Tender Regulation the following are Designated Persons two of whom are required to be in attendance when tenders are opened:
 - ◆ Manager Administrative Services
 - ◆ Manager Corporate Review
 - ◆ Purchasing Officer
 - ◆ Risk Manager
 - ◆ Revenue Accountant
 - ◆ Senior Management Accountant

- **Tender Period**

- **General Requirements**

The regulation requires that the deadline for submission of tenders or of expressions of interest in tendering for a particular proposed contract, shall be at least 21 days after the date of publication of the first advertisement.

Under the Interpretation Act, the day of publication of the advertisement must be excluded from the reckoning of 21 days.

No period of time is prescribed for the submission of applications from persons interested in being listed as a recognised contractor for particular kinds of proposed contracts. However, the deadline for both selective tendering arrangements is set as a minimum of 21 days in these guidelines.

- **Shortened Tender Period**

Clause 12 of the Regulation provides that in exceptional circumstances Council may, by resolution, decide on a shorter period of at least 7 days after the first publication of an advertisement under clauses 8 and 9 or an invitation under clauses 9 or 10. In such circumstances the initiating manager will prepare the required report to Council.

- **Extended Tender Period**

If there are circumstances that show that the deadline of 21 days will not allow sufficient time for meaningful tenders to be submitted, the initiating manager may obtain the approval of the General Manager or the relevant Director as the case may be, to an extended tender period. Such approval can be obtained either in conjunction with the approval to call tenders or after tenders have been called or invitations invited. In the latter case, advice must be given to the persons who have been issued with tender documents or invitations. (See Clause 13 of the Tendering Regulation).

- **Risk Management**

Council has a responsibility under the law to ensure the health and safety of all non-employees including contractors. Council is also responsible for ensuring that contractors carry out their work in safe premises, using proper and safe plant and substances and employing safe work systems in which adequate training and supervision is provided. When engaging a contractor, Council has a duty to ensure, as far as practicable, that nobody suffers a risk to their health and safety from the work of the contractor. It is therefore essential that Council follow all requirements in respect of Risk Management. Contractors must be required to bear the risks that are fairly their responsibility. Further advice is available from Council's Risk Manager.

- **Managing Contractor Safety**

Managing Contractor Safety

Holroyd City Council is committed to ensuring the safety and well being of Contractors and subcontractors engaged to perform work and protect Council staff and members of the public who may be affected by such work.

Council will ensure that as part of the tender evaluation process the successful tenderer will have demonstrated compliance with all the safety measures as specified in the tender. To do this each tenderer will include a safety management system to enable safe work. Proof will be required from the tenderer as to:

- ◆ the company's ability to control hazards during the work
- ◆ perform risk assessments prior to the work commencing
- ◆ consult with its workers and appointed Council representatives
- ◆ provide references of similar successfully completed projects.

A checklist detailing some or all of Council's safety requirements is included at the end of this document.

The successful tenderer must work in accordance with council's safety policy and contractor safety policy, copies to be provided when tenders are let. Where breaches of safety practices exist, they must be dealt with by the Council Officer overseeing the works. Clauses in the tender documentation should specify details of a grievance process as determined by Council and consequences for disregard of safe work practices ie may deem the contract void.

Further advice of specific safety inclusions can be sought from the training & Safety Co Ordinator.

Refer Council website www.holroyd.nsw.gov.au (Click on A-Z of Services; "P"; Policies – Managing Contractor Safety).

2 PLANNING

- **Management Plan Requirements**

Justification of Capital Outlays and Sales

Under the provisions of Section 403 of the Local Government Act, 1993 Council must provide details of proposed capital works projects, asset replacement programs and sales of assets in the Management Plan and Budget. It is essential for the purpose of planning tenders in the coming year that the Management Plan include only firm proposals for expenditure. This requires the justification for, and approval of, capital expenditures and asset sales as part of the budgetary process.

- **Budget Funding Proposals**

Funding proposals for capital outlays in the ensuing year are to be submitted to the General Manager and must include the following elements analysing costs and benefits:

- ◆ a statement relating the proposed outlay to forward programs for asset acquisition and Council's objectives;
- ◆ an examination of the impact on revenue funds of both the cost of purchase and life cycle costs;
- ◆ funding alternatives such as finance lease, loan borrowing's and utilisation of internally restricted assets;
- ◆ the consequences of delaying the acquisition of the asset;
- ◆ in the case of the replacement of an asset, the condition of the asset, the possibility of prolonging its life by carrying out major repairs or modifications and the likely sale or trade-in value of the existing asset;
- ◆ the alternatives of contracting out or resourcing the project internally;
- ◆ the best method for testing the market;
- ◆ the economic desirability of the project or outlay.

- **List of Proposed Contracts**

- ◆ Following **adoption of the Management Plan**, a list must be prepared by each Department of Council of proposed contracts for which it is expected that tenders will be called. The list shall include property, plant, equipment, constructed assets, non-capital projects and purchase of services and facilities.
- ◆ Holroyd City Council will call for tenders when the amount for goods, services or work exceeds 80% of \$150,000 allowed by the Department of Local Government. The amount will therefore be \$120,000.
- ◆ A copy of the list shall be provided to the General Manager and the Manager Corporate Review and will be used for the purpose of monitoring the tendering process by the external and internal auditors.

- **Planning and Supervision**

- ◆ An officer of the initiating Department shall be appointed to take responsibility for the management of each tender and to be accountable for the results. The following action shall be taken to plan each tendering project:
 - ◇ set a timetable, covering the calling of tenders, evaluating, reporting and performance monitoring
 - ◇ staff with relevant skills and at least one staff member with no interest in the outcome;
 - ◇ in order to facilitate audit and independent review, arrange for full documentation of all processes and decisions including records of specification details, assessment criteria, weightings, decisions, reasons for departures from established procedures and approvals of such departures by a senior officer not directly involved in the tendering process.

- **Tender Review Panel**

As part of the review process a “Tender Review Panel” will assess Tenders and/or Expressions of Interest received. The Tender Review Panel will meet with the Departmental Evaluation Team to ensure all processes as laid out in the Tender Procedures are undertaken. The panel is to be made up of the following officer:

- ◆ Manager Administrative Services
- ◆ Manager Corporate Review
- ◆ Purchasing Officer

The Tender Review Panel should convene to assess Tenders as well as Expressions of Interest.

The panel members must disclose at the start of, or during, the Tendering process any potential pecuniary or non-pecuniary conflict of interest that could affect their impartiality. This process should be documented and placed on file.

- **Procurement Strategies**

- ◆ At the planning stage of tendering, it will be necessary to determine the type of contract to be used to procure the project, goods or services. This involves selection of the appropriate delivery system and the appropriate contract system.

- **Delivery Systems**

- ◆ The delivery systems are single contracts, multiple contracts and period contracts.
- ◆ Single contracts involve one main contract which covers construction of the project with or without smaller associated contracts. Projects most suited to single contracts are those where there is no advantage in splitting the works.
- ◆ Multiple contracts involve a number of contracts of various sizes and complexity. They allow separate contracts to be awarded as documentation proceeds for each segment of the project within an overall program. Projects most suited to this system are those requiring staging, fast tracking or greater control over the

project.

- ◆ Period contracts are used for programs of works rather than for projects. These are “schedule of rates” contracts let for specific types of works over a period of time.

- **Contract Systems**

- ◆ Single or multiple contracts can be used for the following contract systems:
 - ◇ Construct only
 - ◇ design development and construct
 - ◇ design and construct
 - ◇ design and construct
- ◆ Construct only contracts are based on a fixed detailed design and are entered into on the basis of a lump sum with or without a bill of quantities or schedule of rates. Under these contracts there are advantages in quality, realistic pricing, lower tender cost and greater competition. There are less risks to Council.
- ◆ Design development and construct contracts are let to develop a conceptual design prepared by Council and construct the work. They are most suitable for work where Council has a conceptual design but either wishes to avoid the co-ordination problems and risks associated with the “construct only” system or does not have the resources or time required under that system.
- ◆ Design and construct contracts are similar to design development and construct contracts but the contractor assumes full responsibility for the design as well as the construction and pays the designers fees. Council has full control of the conceptual design and can ensure continuity of the single designer’s input from conception to completion. Contracts of this type are suitable for large, one-off projects where the brief is clear and well defined, there are specialist firms, proprietary designs and construction processes available in the market place or there is a benefit from having the contractor responsible for design and documentation. They are usually lump sum.
- ◆ Design and construct contracts are let for the preparation of the conceptual design, design development and construction. They are usually lump sum. Council prepares a performance and quality requirements specification. These contracts are more applicable to projects with simple and concise briefs, few complex requirements and little likelihood of changes after the contract has been awarded. The main advantages are that the contractor assumes total responsibility for the work, scope for innovation can be broadened, fewer Council resources are required and project time can be reduced.

- **Lower Value Contracts - \$500,000 or less**

- ◆ One of two delivery systems should be used for works valued at \$500,000 or under:
 - ◇ single contracts with one contract covering the majority of the work with or without satellite contracts; or
 - ◇ multiple overlapping contracts awarded progressively in trade packages.

- ◆ The single contract is most suited to small contracts which are well defined because a single contractor is given responsibility for the management and co-ordination of all trades involved.

- ◆ Multiple contracts are used where:
 - ◇ fast tracking is required
 - ◇ brief is imprecise
 - ◇ elements of the work are subject to impacts of fast-changing technology
 - ◇ work is fragmented because of physical constraints or distance
 - ◇ staging is difficult
 - ◇ other high-risk situations exist.

- ◆ For lower-valued contracts one of two contract systems are usually employed. These are the traditional system and the non-traditional system with various degrees of design completion.

- ◆ The traditional system consists of the completion of all design and documentation before calling tenders. The contractor is responsible for construction only and it can be either lump sum or schedule of rates methods of payment. It is appropriate where there is sufficient time to carry out design and documentation and construction consecutively.

- ◆ The non-traditional contract system is best adopted for works where well established standards exist for details and finishes. They can range from design and construct based on a functional brief to design development and construct based on a completed conceptual design.

- **Estimate of End Cost**
 - ◆ A realistic estimate of cost should be prepared for the overall project before calling tenders. The estimate should be based on a comparison of the works to similar works and estimating cost based on unit rates. The estimate must include all costs outside the contract such as design and/or documentation fees if applicable, contingencies, supervision costs and insurances for which Council would be responsible.

 - ◆ A realistic estimate of the total cost of each project should be prepared. This must be based on a comparison to like works, unit rates, expert opinion or reference to prior years and needs to be reliable and verifiable. This estimate should be formally documented and placed on file prior to any decision being made on the method of procurement.

 - ◆ **Please Note:** Holroyd City Council will call for tenders when the amount for goods, services or work exceeds 80% of \$150,000 allowed by the Department of Local Government. The amount will therefore be \$120,000.

3 INVITING EXPRESSIONS OF INTEREST

- **Scope**

- ◆ This section of the guidelines sets out the procedures to be followed in inviting expressions of interest in conjunction with the two selective tendering methods provided for in the Tendering Regulations:
 - ◇ invitations to tender for a particular proposed contract (Clause 9),
 - ◇ invitations to tender for particular kinds of proposed contracts with a view to preparing a list of suitable tenders (Clause 10).

- **Document Preparation**

- ◆ The initiating manager shall arrange for the allocation of a contract number from the Manager Administrative Services and the preparation of any expression of interest information documents which it is proposed to provide to enquirers.

Expressions of interest documents should include all information necessary to give interested persons a clear understanding of the works, goods or services required by Council and to enable them to provide details of their capacity to meet Council's requirements. The information could include such as:

- ◇ registered company name and ACN
- ◇ business address and numbers for telephone, facsimile and mobile telephones.
- ◇ name of the contact person and the position held in the company.
- ◇ number of years in business.
- ◇ number of years experience in similar work to that proposed by Council.
- ◇ details of past and current projects of a similar kind to that proposed by Council and details of contracts which the company has failed to complete.
- ◇ names, roles and technical experience of the principal persons who would be involved in the proposed work.
- ◇ details of the financial capacity of the company including latest audited financial statements and names of bankers and accountant.
- ◇ details of labour, plant and equipment which would be dedicated to the proposed project.
- ◇ management systems which would be employed to manage the proposed project.
- ◇ the names, addresses and contact numbers of two referees and their relationship to the company.

- **Approval to Issue Expression of Interest Documents**

The initiating manager must obtain the approval of the relevant Director to the issue to the expression of interest documents as being complete and appropriate to the project.

- **Advertisements**

Preparation of Draft Advertisement

- ◆ Following completion of the expression of interest documents, the initiating manager shall obtain the written approval of the relevant Director to proceed with the placement of an advertisement inviting expressions of interest in the publications nominated.
- ◆ The advertisement should be prepared by the initiating manager generally in accordance with the standard format set out in Appendix 1. It is essential that the advertisement satisfies the requirements of Clauses 9 and 10 of the Tendering Regulation which provides that advertisements must:
 - ◆ be placed in a Sydney Metropolitan daily newspaper and either or both a newspaper circulating in Council's area or a newspaper circulating in the district where potential tenderers are likely to be carrying on business or to be residing;
 - ◆ include a brief description of the work, goods, facilities, services or property concerned;
 - ◆ specify the name of the contact person and how that person can be reached to enable enquirers to obtain additional information concerning the proposed contract or kinds of contracts;
 - ◆ invite applications from persons interested in tendering for the proposed or kinds of contracts by a specified time on a date at least 21 days after the date (or first date) of publication.

In addition, the advertisement should include:

- ◆ an indication that expressions of interest documents can be obtained from the Customer Service Centre, the purchase price of those documents (if applicable), and telephone number of the Customer Service contact.
- ◆ an indication (if possible) of when Council proposes to call tenders following consideration of the expressions of interest received.
- ◆ the place for lodgement of expressions of interest (the tender box located in the foyer of the Customer Service Centre).
- ◆ a statement that applicants and members of the public are invited to the opening of the expressions of interest immediately after the time for closing of invitations.
- ◆ a statement that applicants must abide by the ethical consideration contained in the Holroyd City Council's Code of Conduct and Business Ethics.

Design and Placement of Advertisement

- ◆ Consideration should be given to the requirement of the ICAC "Practical Guide to Corruption Prevention" concerning the design of advertisements to attract the attention of bidders in the relevant industry or location and the placement in appropriate journals as well as newspapers. The size and placement of the advertisements will be commensurate with the value, importance and nature of the

proposed contract.

- ◆ The advertisement once reviewed should then be forwarded to the Mayor's Secretary for placement in the desired publications

It is imperative that the advertisement for the tender must be placed only after copies of the advertisement, specifications and instructions are issued to the following:

- ◇ **Webmaster for inclusion in the Internet**
- ◇ **Customer Service Centre for issuing to the prospective tenderers**

Distribution of Copies of Advertisement

- ◆ The Initiating Manager will ensure that a copy of the advertisement will be forwarded to:
 - ◇ Records Section to assist with identification of expressions of interest.
 - ◇ Contact persons named in the advertisement.
 - ◇ Customer Services Team Leader
 - ◇ Webmaster
 - ◇ Manager Corporate Review

- ◆ **Issue of Expression of Interest Documents**

Prior to the date of the advertisement, sets of documents and drawings are to be supplied to the Customer Service Centre for issue to Enquirer's upon payment of the required fee (if applicable). Customer Service Centre may post documents to interested persons.

- **Receipt, Opening and Recording of Expressions of Interest**

The procedure set out in these guidelines for dealing with the receipt, opening and recording of tenders shall apply to expressions of interest. (See Section 5).

- **Evaluation of Expressions of Interest**

Consideration of applications Received.

The procedure set out in these guidelines dealing with the evaluation of tenders shall apply to the evaluation of expressions of interest. Reference should be made to Section 6.1 of these guidelines.

- ◆ Clauses 9(3) and 10(3) of the Tendering Regulation require that all expressions of interest received by Council must be considered. However consideration shall not be given to late applications except in accordance with Clause 18 of the Tendering Regulation and Clause 6.1.3 of these Guidelines.
- ◆ If consideration is not given to an expression of interest, the reasons for rejection must be recorded by the Appropriate Person.

Matters for Consideration

- ◆ When considering expressions of interest applications, the following criteria shall be taken into account:
 - ◇ experience of the applicant in fulfilling the requirements of similar contracts
 - ◇ capacity of the applicant to fulfil the requirements of the proposed contract
 - ◇ general selection criteria as applicable

- **Report to Council**

- ◆ A report to Council concerning evaluation of expressions of interest is to be prepared by the responsible manager at the earliest practical opportunity. The report shall include a comparison of all expressions submitted and reasons as to why the selected expression(s) of interest is recommended.
- ◆ The report to Council is to be signed by the relevant group manager and include a statement that the Tender Review Panel is satisfied as to the fairness of the process.
- ◆ The evaluation methodology and evidence supporting the decision for acceptance of an expression of interest by Council shall be fully documented and held on file.
- ◆ Interested parties shall not be advised of report details or recommendations prior to the publication of the Council business paper.
- ◆ It is necessary that commercial information is not disclosed in an ordinary report or attachments. Should it be necessary to provide this information to Council for its consideration then this should be supplied in the form of a confidential report or confidential attachments.

- **Acceptance of Expressions of Interest**
 - ◆ Council may decide either to send invitations to tender to all applicants or those it considers will be able to fulfil the requirements of the proposed contract (Appendix 3) or to decline to invite tenders from any of the applicants. All applicants must be advised of the outcome of their applications by the Initiating Manager.
 - ◆ Confidential details shall not be disclosed to any person concerning the expressions of interest completed by the successful, or any other party.
 - ◆ In the case of invitations to tender for a proposed contract under Clause 9 of the Tendering Regulation, the successful applicants should be advised that they will be invited to submit tenders for the proposed contract.
 - ◆ In the case of invitations to tender for particular kinds of proposed contracts under Clause 10 of the Tendering Regulation, the successful applicants should be advised that they have been listed as recognised contractors for some or all of the kinds of work, goods, facilities, services or property listed in their applications.

4 PREPARATION OF TENDER DOCUMENTS

- **Scope**

This section is applicable to the preparation of tender documents both for tenders invited from selected applicants under the selective tendering methods and for public tenders called under the open tendering method.

- **Records for Open Tenders**

Contract Number - The initiating manager shall arrange for the allocation of a contract number from the Manager Administrative Services which shall appear on each page of the tender documents.

File Number - The Manager Administrative Services must arrange with Records for the opening of a contract file. The written approval of the General Manager or the relevant Director to the calling of tenders must be placed on the contract file.

- **Project Definition**

To assist with the preparation of tender documents, a clear and specific project brief shall be designed and documented by the responsible manager. The brief must adequately define the project to be undertaken by Council. (See Code of Tendering for the Construction Industry, Page 40 and AS 4120 Clause 6.1).

- **Legislative Requirements**

Tender documents must be prepared by the responsible manager and, in accordance with clauses 8(3), 9(6), 10(7) and 11 of the Tendering Regulation must include:

- ◇ details of the work, goods, services, facilities or property concerned;
- ◇ if the proposed contract is an instalment contract, details of the instalments, the instalment period and intervals between payments;
- ◇ criteria for assessment of tenders;
- ◇ name of the contact person and how that person can be reached to enable enquirers to obtain additional information;
- ◇ a statement to the effect that tenders will not be considered unless formal tender documents are submitted to Council and indicating the circumstances under which Council will consider tenders received after the advertised deadline.

- **Code of Tendering Requirements**

The code of Tendering for the Construction Industry (Practice Note 8(a)) applies to all Council building, construction, maintenance and material supply contracts, consultant commissions and government funded projects and sites within the construction industry. The Code requires that tender documents should include the following matters:

- ◆ a clear definition of the contractual obligation of the parties (eg: safety matters, insurance and industrial relations);
- ◆ any special conditions or obligations under the proposed contract which depart from Council's normal practice;
- ◆ any supporting information required from tenderers;
- ◆ positive encouragement to tenderers allowing them the option, in addition to submitting a conforming tender, to incorporate maximum innovation while still satisfying Council's objectives;
- ◆ inclusion of the statement - *"All tenderers must comply with the New South Wales Government Code of Practice for the Construction Industry. Lodgement of a tender will be evidence of the tenderer's agreement to comply with the code for the duration of any contract that may be awarded. If any tenderer fails to comply with the code, the failure may be taken into account by Council when considering this or any subsequent tender and may result in this or any subsequent tender being passed over."*
- ◆ a statement that tenderers must abide by the ethical considerations contained in the Holroyd City Council's Code of Conduct.

- **Other Requirements**

Consideration should be given to the relevance for inclusion in the tender documents any of the following matters specified in the Code of Tendering, Australian Standard AS 4120 -1994 and the ICAC Manual, Practical Guide to Corruption Prevention:

- ◆ information known to Council which is relevant to enable tenderers to evaluate the risks in the project;
- ◆ a statement that each tenderer is required to state the main sub-contractors to be used on the project or a small panel from which those main sub-contractors will be drawn;

- ◆ the tender validity period;
- ◆ arrangements for opening of tenders and display of tenders list with reference to clause 15 of the Tendering Regulation;
- ◆ copy of the draft contract and documents to be used for the tender.
- ◆ **if the tender involves building or any form of construction , the Council must be provided with a certificate of currency of their public liability insurance. The said policy must specifically contain an indemnity provision in favour of the Council, in case of litigation against the Council, for damages resulting from the work carried out by the Contractor.**

- **Composition of Tender Documents**

Check in Australian Standards website www.standards.com.au Standards AS 2124, AS 2125 and AS 2127 which can be used for most tenders for provision of services, supply of goods and materials, civil engineering and building work. The standard MPW3 issued by the Department of Public Works can also be used. These include:

- ◆ letter of invitation
- ◆ general description of the works and site
- ◆ conditions of tendering
- ◆ the tender form
- ◆ essential information to be submitted with tenders including risk management and environmental protection
- ◆ insurance documents including Indemnity and Risk Assessment
- ◆ general conditions of contract and the form of contract to be used
- ◆ special conditions of contract
- ◆ specifications of required works or services, performance requirements or standard of workmanship and materials
- ◆ schedule of rates or amounts
- ◆ drawings
- ◆ Occupational Health and Safety requirements (attached)
- ◆ Conditions under which alternative tenders will be considered
- ◆ criteria for assessment of tenders
- ◆ form of agreement
- ◆ copy of Holroyd City Council’s Code of Conduct and Business Ethics

The conditions of tendering must include the statement: “The lowest or any tender will not necessarily be accepted”.

Provision should be made on each page of a Schedule of Rates or Bill of Quantities for the name, address, telephone number, signature and date for the tenderer to complete.

Tender documents for the supply of goods or services will depend on the type of contract intended and shall form part of the procedures relating to such acquisition or work to be carried out.

- **Criteria for Assessment of Tenders**

- ◆ **Clause 11(6) of the Tendering Regulation requires Council to specify, in the tender documents, the criteria on which the assessment of tenders will be based.** The criteria should contain the critical factors that will make the project successful. These include, but are not limited to, the following:
 - ◇ conformity with tender requirements
 - ◇ innovation
 - ◇ value for money
 - ◇ construction period or length of service period
 - ◇ technical, management, physical, environmental management and financial resources to be applied to the project including risk management
 - ◇ quality assurance
 - ◇ O.H. & S performance record
 - ◇ price compared with estimated cost
 - ◇ adherence to environmental procurement guidelines
 - ◇ current commitments
 - ◇ previous performance of contractor
 - ◇ local supplier preference (all other criteria being equal)
 - ◇ ability to provide a certificate of currency for current public liability insurance with indemnity provision in favour of the Council

- **Specification for Supply of Goods**

Where the proposed contract is for the supply of goods the specification should include precise details of the product required. The description should specify the type, class, style, grade or other identification, number or quantity, time or period of delivery and delivery charges. Where applicable, requirements should be included for submission of drawings, engineering standards, technical details and for approval of samples and inspections prior to acceptance

- **Approval to Issue Tender Documents**

The initiating manager must obtain the approval of the relevant Directors to the issue of the tender documents as being complete and appropriate to the project.

5 INVITING TENDERS

- **Scope**

This section applies to tenders invited under the selective tendering methods for particular projects and particular kinds of projects, and to tenders invited by public advertisement under the open tendering method.

- **Inviting Selective Tenders**

- ◆ The manager responsible for the project shall invite tenders from selected persons or firms predetermined and approved by the General Manager.

- ◆ The letter of invitation shall be in a similar format to that set out in (Appendix 3). It must give details of where and when tender documents can be obtained and the purchase price (if applicable), and indicate that tenders must be submitted by a specified time on a date that is at least 21 days after the date of the invitation.

A copy of the letter of invitation and the tender documents must be referred to the Manager Administrative Services for dealing with the tenders in the normal course.

- **Inviting Open Tenders**

Preparation of Draft Advertisement

- ◆ Following completion of the tender documents, the initiating manager shall obtain the written approval of the relevant Director to proceed with the placement of an advertisement in the publications nominated inviting tenders for the project.
- ◆ The advertisement should be prepared by the initiating manager, generally in accordance with the standard format set out in Appendix 2. It is essential that the advertisement satisfy the requirements of clauses 9 and 10 of the Tendering Regulation and the Code of Tendering. The advertisement must:
 - ◇ be placed in a Sydney metropolitan daily newspaper and either or both a newspaper circulating in Council's area or a newspaper circulating in the district where potential tenderers are likely to be carrying on business or to be residing;
 - ◇ express the purpose of the proposed contract (a description of the work, goods, services or property concerned);
 - ◇ specify the name of the contact person and how that person can be reached to enable enquiries to obtain additional information (technical information in relation to the proposed contract);
- ◆ In addition the advertisement should include:
 - ◇ invite any person willing to fulfil the requirements of the proposed contract to submit a tender by a specified time on a date at least 21 days after the date (or first date) of publication;
 - ◇ state that "the lowest or any tender will not necessarily be accepted";
 - ◇ display, in respect of proposed construction contracts the words "Tenderers are required to comply with the Local Government (Tendering) Regulation 1999 and the New South Wales Government's Code of Tendering for the Construction Industry";
 - ◇ give details of where and when tender documents can be obtained. Customer Service Centre, the purchase price of those documents (if applicable), and telephone number of the Customer Service contact.
 - ◇ the place for lodgement of tenders (the tender box located in the foyer of the Customer Service Centre).
 - ◇ a statement that applicants and members of the public are invited to the opening of the tenders immediately after the time for closing of tenders.
 - ◇ A statement that applicants must abide by the ethical considerations contained in the Holroyd City Council's Code of Conduct.

Design and Placement of Advertisement

Consideration should be given to the requirement of the ICAC “Practical Guide to Corruption Prevention” concerning the design of advertisements to attract the attention of bidders in the relevant industry or location and the placement in appropriate journals as well as newspapers. The size and placement of the advertisements will be commensurate with the value, importance and nature of the proposed contract.

The advertisement should be forwarded to the Mayoral Secretary for placement in the desired publications.

It is imperative that the advertisement for the tender must be placed only after copies of specifications and instructions are issued to the following:

- **Webmaster for inclusion in the Internet**
- **Customer Service Centre for issuing to the prospective tenderers**

Distribution of Copies of Advertisement

◆ The Initiating Manager will ensure that a copy of the approved advertisement are forwarded to:

- ◇ Records Coordinator to assist with identification of tenders.
- ◇ Contact persons named in the advertisement.
- ◇ Customer Service Team Leader
- ◇ Webmaster
- ◇ Manager Corporate Review.

- **Issue of Tender Documents**

Prior to placing the advertisement, sets of documents and drawings are to be supplied to the Customer Services Team Leader for issue to inquirers upon payment of the required fee (if applicable)

- **Requirements During Tender Period**

Tender Inquiries - In accordance with the Code of Tendering for the Construction Industry (Department of Local Government) and the Code of Tendering, AS 4120, information must not be given to one tenderer without being given to all tenderers.

Errors in Tender Documents - If an inquiry reveals a significant error, omission, ambiguity or discrepancy in the tender documents, the information provided to resolve the problem must be conveyed promptly in writing to all tenderers.

Pre-tender Briefing - If the tender documents require pre-tender briefing conferences, such meetings must be minuted, and the minutes forwarded to all tenderers and become part of the tender documents.

Amendment to Tender Documents - Where it becomes necessary to amend tender documents during the tender period, the amendments must be forwarded to all tenderers as an addendum in sufficient time for full and proper consideration before tenders close. The addendum should clearly state that it forms part of the tender documents. Tenderers should be requested to acknowledge receipt of an addendum in writing and to confirm in their tenders that allowance has been made therein for each addendum. When an addendum is issued, consideration should be given to extending the tender period in accordance with clause 13 of the Tendering Regulation. If more than one addendum is issued they must be numbered in the order of issue.

- **Receipt and Custody of Tenders**

- ◆ This section applies both to tenders and expressions of interest.
- ◆ Persons delivering tenders by hand are to be directed to the locked tender box located in the foyer of the Customer Service Centre, Merrylands. They should be instructed to personally place their tender in the box. The keys of the tender box shall be kept by the Manager Administrative Services.. The tender box shall not be opened except for the extraction of tenders at the appropriate time. If a tender is too bulky to fit into the tender box it must be referred to the Records Section who shall keep it secure and produce it when the tender box is opened.
- ◆ Tenders received by mail will be placed in the tender box by a member of the Records Section.
- ◆ Tenders delivered by courier will be placed in the tender box by the courier as the authorised delivery agent of the tenderer.
- ◆ Tenders may be submitted electronically by an approved e-tendering application on the basis that all documentation can be provided in an electronic format. Refer Council's website www.holroyd.nsw.gov.au.
- ◆ If any tenders received by mail prior to the closing time are inadvertently opened, the contents should be replaced in the envelope, resealed, dated, initialled by the Records Coordinator or Acting Records Coordinator and handed to the Manager Administrative Services for placing in the tender box.

- **Opening of Tenders**

- ◆ This section applies both to tenders and expressions of interest.
- ◆ Tenders will be taken from the tender box and opened by a Designated Officer. They must be removed and opened in the presence at least two persons from the Tender Review Panel delegated by the Council.

The Initiating Manager must give adequate notice to those required to open the tenders.

- ◆ Tenderers and members of the public may attend the opening of tenders but are not entitled to receive any information about the tenders other than whether Council has received a particular tender and the number of tenders received. (Clause 16 of the Tendering Regulation).

- ◆ After the envelopes have been removed from the tender box, any tender envelopes which relate to other tenders not yet closed shall be replaced in the tender box. Any envelope not clearly endorsed shall be opened and identified and if it relates to a tender not yet closed, it shall be resealed, properly endorsed with the description of the relevant tender, dated, initialled by all members of the panel, and replaced in the tender box. The tender box shall then be locked.
- ◆ Any tender identified as relating to a tender which has previously been closed, should be initialled by all members of the panel with time and date. It should then be registered with Records. The Tender Opening Panel Member and the initiating manager shall determine whether or not the tender should be considered as a late tender.
- ◆ The remaining tenders shall then be placed in-groups for each of the tenders closing on that day.

- **Recording of Tenders**

Preparation of Tender List - As soon as practicable the Manager Administrative Services must record the apparent amounts tendered and prepare a list of Tenders Received (Appendix 4) specifying the names of tenderers in ascending order of those apparent amounts and including any other information considered appropriate by the Manager Administrative Services Clause 16(3) and (4) of the Tendering Regulation).

The values of each tender shall not be disclosed and, if appropriate, additional wording such as: ***“This list is in alphabetical order as the apparent order of price has not been determined”*** may be included as a disclaimer under Section 16(4) of the Tendering Regulation.

Summary of Tenders Received

A Summary of Tenders Received list recording apparently tendered amounts is to be prepared for file purposes (refer Appendix 5). This is in accordance with Section 16(3)(a) of the Local Government (Tendering) Regulation 1999.

Registration and filing

- ◆ On completion of the relevant documentation the Manager Administrative Services shall refer all tenders and the summary of tenders to Records for filing and registration as correspondence in the correspondence register. Note: *These shall be registered on the closing date of the Tender.*
- ◆ Where tender deposit cheques are received, the Records Coordinator shall lodge the cheques with the Cashier, obtain receipts on the same day and include the receipts with the tender documents on the respective file.
- ◆ The originals of all tender documents including receipts for tender deposits where applicable) are then to be forwarded to the initiating manager for evaluation and the preparation of a report to Council as soon as practicable.

Public Display of Tender List

Immediately after preparing the tender list, the Manager Administrative Services must place it on display on the notice board in the foyer of the Customer Service Centre, 16 Memorial Avenue, Merrylands where it can be readily seen by members of the public. (Clause 16(4) of the Tendering Regulation).

Confidentiality and Security of Tenders

- ◆ Tenders, when not required for processing and evaluation, must be secured in a safe place to safeguard confidentiality.
- ◆ Information contained in tenders must be kept confidential at all times and only made available on a need-to-know basis. No information shall be divulged to another tenderer at any stage other than the information which is publicly available in the tender list referred to in Clauses 5.8.1 and 5.8.6 above.

6 EVALUATION, REPORTING AND ACCEPTANCE OF TENDERS

• Evaluation of Tenders

Prompt Attention to Tenders - Clause 18(1) of the Tendering Regulation requires that tenders must be assessed as soon as practicable after the closing date.

• Tenders not to be considered

- ◆ This section applies to the rejection of both tenders and expressions of interest.
- ◆ Consideration shall not be given to the following tenders and the reasons for rejection must be clearly documented: -
 - ◇ tenders received by Council after the advertised closing time, unless received within five (5) working days thereafter and the tenderer is able to provide evidence that those tender documents and all other requisite and essential information were posted or lodged at the Post Office or other recognised delivery agency in sufficient time to enable the documents to have been received by Council before the advertised closing time
 - ◇ tenders not submitted on formal tender documents where specified by Council that formal document must be submitted in accordance with Clause 18(4) of the Tendering Regulation
 - ◇ All tenders apart from those rejected under 6.1.3 above must be considered.

• Tender Evaluation

- The initiating manager responsible for the contract must carry out tender evaluation. It is recommended that he or she will obtain the services of other members of staff to assist in the evaluation. All staff are required to disclose any pecuniary interest they may have in connection with the tender. Any disclosures must be referred to the General Manager for determination.

- ◆ In evaluating the tenders the initiating manager and other members of staff must give consideration to the following:
 - ◇ experience of the tenderer in fulfilling the requirements of similar contracts
 - ◇ capacity of the tenderer to fulfil the requirements of the proposed contract
 - ◇ the selection criteria as specified in the tender documents issued by Council
 - ◇ the contract price.

- **Weightings**
 - ◆ Before the evaluation commences, the initiating manager and other members of staff should meet to determine the weightings to be allocated to each of the criteria to be used in the evaluation process. Not all criteria will be of equal weight because some will have a greater impact than others depending upon their importance. Furthermore, the weightings given to criteria will vary from one contract to another and weights should therefore be determined for each contract having regard for its particular characteristics.

 - ◆ All tender evaluations shall be fully documented by the manager responsible for the contract to substantiate the reason for the recommended selection.

- **Tender Review Panel**
 - ◆ The initiating manager responsible for the contract will then refer the tenders to the Tender Review Panel appointed to assess the tenders.
 - ◆ Members of the Tender Review Panel must be invited, in accordance with Council’s Code of Conduct, to disclose any pecuniary or non-pecuniary interest they may have in the matter. Any disclosures must be referred to the General Manager for determination.
 - ◆ The Panel shall ensure that all relevant checklists and schedules have been completed, all necessary documents submitted and that the tender is in conformity with the tender documents issued by Council.

- **Variations to Tenders**
 - ◆ Clause 17 of the Tendering Regulation provides that tenders may be varied in certain circumstances. These requirements should be carefully noted and these are quoted in full below:

“17(1) At any time before a council accepts any of the tenders that it has received for a proposed contract, a person who has submitted a tender may, subject to subclause (2), vary the tender:

 - ◇ by providing the council with further information by way of explanation or clarification; or
 - ◇ by correcting a mistake or anomaly in a tender.

- ◆ Such a variation may be made either:
 - ◇ at the request of the council; or with the consent of the council at the request of the tenderer, but only if, in the circumstances, it appears to the council reasonable to allow the tenderer to provide the information or correct the mistake or anomaly.
 - ◇ If a tender is varied in accordance with this clause, the council must provide all other tenderers whose tenders have the same or similar characteristics as that tender with the opportunity of varying their tenders in a similar way.
 - ◇ A council must not consider a variation of a tender made under this clause if the variation would substantially alter the original tender.”

- ◆ When communicating with tenderers, care must be taken to ensure that no indication is given of the possible outcome of the evaluation. Communication should be limited to seeking further particulars, explanation or clarification but care should be taken to ensure that any variation which might arise is dealt with strictly in accordance with Clause 17 of the Tendering Regulation. It may be preferable in larger contracts to call a meeting of tenderers where all tenderers have an equal opportunity to provide explanations and to consider the need for variations. All communications with tenderers must be recorded.

- **Report to Council**

- ◆ A report to Council concerning acceptance of a tender is to be prepared by the responsible manager at the earliest practical opportunity. The report shall include a comparison of all tenders submitted and reasons as to why the selected tender is recommended. The report and recommendations must address the following:
 - ◇ the reasonableness of the recommended tender
 - ◇ the reasons for passing over any tender lower in price than the recommended tender
 - ◇ the ability of the recommended tenderer to satisfactorily carry out the work
 - ◇ justification for accepting a tender well below the market price for the work or accepting any departures from the tender documents
 - ◇ availability of the site
 - ◇ availability of funds
 - ◇ the reasons for not recommending the acceptance of any tender and the action which should follow
 - ◇ authority for affixing the seal to the contract documents (CL43(4) of the Local Government (Meetings) Regulation, 1993)
 - ◇ Statement that a favourable response has been received from Dun & Bradstreet and/or from Credit Information Bureau checks

NOTE: The report to Council is to be signed by the relevant Director and must include a statement that the Tender Review Panel has reviewed the tender procedures and is satisfied that it is complying with the Council’s tender procedures.

- **Tender Procedures**

- ◆ The evaluation methodology and evidence supporting the decision for acceptance of a tender by Council shall be fully documented and held on file.
- ◆ Tenderers shall not be advised of report details or recommendations prior the publication of the Council business papers. Staff should ensure, in that regard, those tenderers are given no information until the business paper is finalised and then provided only with the time and place of the meeting where tenders will be considered and where business papers are available to the public. Care must be taken to ensure that no information is divulged which is proposed to be considered by Council in the confidential session to be closed to the public.
- ◆ It is necessary that commercial information other than lump sum figures is not disclosed in an ordinary report or attachments. Should it be necessary to provide this information to Council for its consideration then this should be supplied in the form of a confidential report or confidential attachments.

- **Acceptance of Tenders**

- ◆ After considering the tenders submitted for a proposed contract and the report and recommendations thereon, Council must, in accordance with Clause 19 of the Tendering Regulation does either of the following:
 - ◇ accept the tender which appears to be the most advantageous to Council having regard for all the circumstances; or
 - ◇ decline to accept any of the tenders.
- ◆ There are a number of courses open to Council if it decides not to accept any of the tenders submitted or if no tenders are received. The Council may, by resolution, do one of the following:
 - ◇ postpone the proposed project; or
 - ◇ cancel the proposed contract entirely; or
 - ◇ invite fresh tenders using any of the three tendering methods using the same or different details; or
 - ◇ carry out the requirements of the proposed contract itself; or
 - ◇ enter into negotiations with any person in accordance with Clause 19(3)(e) of the Tendering Regulation with a view to entering into a contract. Negotiations may be entered into with any person whether the person was a tenderer or not. The resolution must state the reasons for deciding not to call or invite fresh tenders. (See below).
- ◆ If Council decides to enter into post tender negotiations in accordance with (v) above the requirements of the Code of Tendering - Practice Note 8(a) and the Code of Tendering - AS 4120 should be carefully noted. Both codes state that the principal (Council) should not, in post tender negotiations, seek to trade off different tenderers prices against others in an attempt to seek lower prices. This is regarded as “unconscionable” conduct and amounts to “bid shopping”. Council should first exhaust negotiations with the initially preferred tenderer before negotiating with a subsequent tenderer in order to achieve a conforming tender.

- ◆ When the tenders have been dealt with by Council, tenderers shall be notified by the initiating manager as to the outcome of their tenders. If no tenders are accepted the tenderers must be advised of the terms of Council's resolution. (See Appendixes for examples of correspondence).
- ◆ The initiating manager shall prepare a Result of Tender notice in accordance with the requirements of Clause 20(b) of the Tendering Regulation. The notice must specify the name of the successful tenderer and the amount of the tender. If no tender is accepted by Council, the notice should be to that effect and specify the action proposed by Council. (See Appendix 6). The notice shall be displayed on the notice board in the foyer of the Customer Service Centre, Merrylands where it can be readily seen by members of the public.
- ◆ Clause 19(2) of the Tendering Regulation requires that every contract entered into as a result of a tender must be in accordance with the tender, or as it may be modified by any variation under Clause 17 of the Tendering Regulation.

7 CONTRACTS AND DOCUMENTATION

• Forms of Contract

The following forms of contract are available:

- ◆ Australian Standard AS2124-1986 is the main form of contract for building or civil works and services of any value. The standard was re-issued in 1992 but there are a number of legal issues which require resolution before it comes into general use see website: www.standards.com.au
- ◆ Public Works Minor Services or Works General Conditions are used by the Department of Public Works for building or civil works. See website: www.dpws.nsw.gov.au
- ◆ NPWC3 General Conditions of Contract issued by the National Public Works Council is available for works such as roads and bridges. See website: www.dpws.nsw.gov.au
- ◆ The RTA uses the RTA General Conditions of Contract for Minor Contracts for works supervised by the Authority. See website: www.rta.nsw.gov.au
- ◆ For the supply or supply and installation of equipment or items which are manufactured off-site, the contract documents can be based on AS2987 General Conditions of Contract for the Supply of Equipment With or Without Installation. See website: www.standards.com.au

Tender documents which later form the basis of a contract must contain the following:

- ◆ Contractual/commercial conditions comprising:
 - ◇ Notices to tenderers
 - ◇ Conditions of Tendering
 - ◇ General Conditions of Contract
 - ◇ Annexure to the General Conditions

- ◇ Preliminaries/Special Conditions of Contract

- ◆ Details of the extent of work under the contract
- ◆ Technical requirements, including performance requirements or standards of workmanship and materials and drawings

- **Completion Time**

The completion time for the works must be clearly specified in the Annexure to the General Conditions. It should be realistic and based on the following factors:

- ◆ the needs of the Council
- ◆ the availability of the site and any site restrictions, if applicable
- ◆ an allowance for extensions of time due to such occurrences as wet weather
- ◆ the availability of resources to the contractor including labour,
- ◆ materials and finance

- **Extent of the Work**

- ◆ The extent of the work must be clearly defined in the tender documents forming part of the contract and should cover all work to be carried out under the contract.
- ◆ A contract must not be varied to include additional work except where circumstances arise which could not have reasonably been foreseen when the work was being documented for calling of the tender.

- **Use of Brand Names**

The use of brand names in tender and contract documents should be limited to where this is the only satisfactory method of specifying requirements. Care must be taken to ensure that all suitable proprietary items are specified rather than a limited number.

- **Letter of Acceptance**

- ◆ The letter of acceptance of a tender should include the following details:
 - ◇ date of Council meeting
 - ◇ details of resolution
 - ◇ the contract sum
 - ◇ details of security deposit required when signing contract
 - ◇ arrangements for signing of the contract agreement pointing out the need to affix the company seal and letter of authority for person signing the contract (Note: the contract must be signed by the Managing Director or the Company Secretary or a person authorised by both of those officers in writing).
 - ◇ arrangements for public liability and other insurances
 - ◇ noting the interests of the Council
 - ◇ parties accepting the tender must abide by the ethical considerations contained in the Holroyd City Council's Code of Conduct

- ◆ The contract documents shall be bound in the following order:
 - ◇ Instrument of Agreement
 - ◇ Specifications
 - ◇ Relevant correspondence
 - ◇ Schedules
 - ◇ Form of Tender
 - ◇ Conditions of Tendering and Contract
 - ◇ Copy of acceptance letter
 - ◇ Copy of the tenderers public liability insurance with an indemnity provision in favour of the Council
 - ◇ Drawings
 - ◇ Brochures and other literature
 - ◇ Holroyd City Council's Code of Conduct and Business Ethics
- **Execution of Contract by Council**
 - ◆ The initiating manager shall make arrangements for signing of the contract agreement by Council and affixing the seal.
 - ◆ The contract shall be signed by the Mayor and the General Manager; or by at least one Councillor other than the Mayor and the General Manager or otherwise in accordance with Council's Code of Meeting Practice.
 - ◆ The original of the contract shall be filed as a legal document.
- **Contracts Register**

The following details shall be entered in the Contracts Register:

- ◆ Contract number
- ◆ Nature of contract
- ◆ Name and address of contractor
- ◆ amount of contract or rates
- ◆ deposit paid, date and receipt number or details of bank guarantee
- ◆ minute number of Council resolution accepting the tender
- ◆ security deposit or retention amount

8 CHECKLISTS

- Attached are checklists which can be used by staff engaged in tendering procedures, by internal audit and by the Tender Review Committee in the review process.
- Checklist of Tendering Procedures covers:
 - ◇ Project Planning and Initiation
 - ◇ Procurement Strategies
 - ◇ Documentation
 - ◇ Inviting Tenders
 - ◇ Opening of Tenders and Expressions of Interest
 - ◇ Evaluation of Tenders
 - ◇ Report to Council
 - ◇ Acceptance of Tenders
- A separate Checklist is provided covering procedures for dealing with expressions of interest.

CHECKLIST ON TENDERING PROCEDURES

PROJECT PLANNING AND INITIATION

	COMMENT / DETAIL
• Availability of Funding	
Provided in Budget	
Supplementary vote	
List of proposed contracts	
• Preparation of Project Brief	
Functional Requirements	
Time Requirements	
Estimate of end cost including contingencies	
Risk allocation	

PROCUREMENT STRATEGIES – PROJECT DELIVERY

	COMMENT / DETAIL
• Multiple contracts, for reasons of:	
Staging	
Fast tracking	
Greater control	

DOCUMENTATION

	COMMENT / DETAIL
• Form of contract	
AS 2121, 1986	
AS 2124,1992	
NPWC	
PDW Minor Services or Works	
RTA Minor Contracts	
AS 2987	
Other (specify)	
• Tender Documents	
Contractual conditions	
Extent of work	
Technical requirements	
Completion time	
Details of instalments	
Evaluation criteria	
Contact person	
Requirements for submission of formal tender document	
Encouragement for innovation	
Statement of necessity for compliance with NSW Government Code of Practice	
Arrangements for opening tenders	
Tender documents	
Use of consultants for documentation	

INVITING TENDERS

	COMMENT / DETAIL
• Open Tenders	
Selective Tenders (see separate checklist)	
Particular projects	
Particular kinds of projects	
• Advertisement	
Placement and coverage	
Purpose and description of contract	
Location and price of documentation available to tenders	
Contact person	
Date and time of closing of tenders – observance of statutory requirements	
Location of tender box	
Statement that the lowest or any tender will not be accepted	
Statement that tenders are required to comply with the NSW Government Code of Practice for the Construction Industry	
Invitation to place advertisements	
Confidentiality of tender information	
Advertisement passed to Mayor’s Secretary	
• Copies of advertisement forwarded to:	
Records Coordinator	
Webmaster (if applicable)	
Contact person named in advertisement	
Customer Service Team Leader	
• Issue of Tender documents	
Set of specifications, documents, drawings (whichever is applicable)to	
Customer Service Team Leader	
Webmaster (if applicable)	
Manager Administrative Services	
Inform CSTL if fee is payable for specifications, documents and drawings	

• Requirements During Tender Period	
Amendments to tender documents	
Tender enquires	
Pre- tender briefings	
Treatment of postal, courier or faxed tenders	
Treatment of tenders opened in error	

OPENING OF TENDERS

	COMMENT / DETAIL
• Opening of Tender	
Presence of panel members	
Treatment of unrelated tenders	
Identification of late tenders	
Preparation and display of tender list	
Preparation of summary of tenders received	
Tender deposits	
Prompt referral to initiating manager	
Confidentiality and security	

EVALUATION OF TENDERS

	COMMENT / DETAIL
• Appointment of Project Officer	
Preparation of timetable	
• Disclosure of personal interest	
Prompt attention to tenders	
Conformity with tender documents and alternatives allowed	

• Suitability of tenders	
Experience with similar contracts	
Capacity to fulfil contract	
• Selection criteria	
• Tender price	
Tender well below market value	
• Documentation of process	
• Treatment of variations to tenders	
• OH & S requirements	
• Environmental Procurement Guidelines	
• Favourable response to Dun & Bradstreet checks and/or Credit Information Bureau checks	
• If a bank guarantee is required ensure it complies with Council procedures	

REPORT TO COUNCIL

	COMMENT / DETAIL
• Reasonableness of recommendation	
• Reasons for passing over lower tenders	
• Ability to recommend tenderer	
• Justification for recommending tender below market price	
• Justification for accepting departures from tender documents	
• Availability of funds	
• Reasons for not recommending acceptance of any tender and action required	
• Statement by Tender Review Panel	

ACCEPTANCE OF TENDERS

	COMMENT / DETAIL
<ul style="list-style-type: none"> Council decision to accept 	
Advice tenderers	
<ul style="list-style-type: none"> Council decision not to accept any tenders 	
Resolution to postpone contract	
Resolution to cancel project	
Resolution to invite fresh tenders	
Resolution to enter into post-tender negotiations	
Notification to tenderers & notice board	
All employees engaged by the contractor are paid award wages and no wage claims are outstanding against the contractor	
<ul style="list-style-type: none"> Current public liability insurance with indemnity provision in favour of the Council . (A certificate of currency <u>must</u> be produced) 	

CHECKLIST FOR EXPRESSIONS OF INTEREST

	COMMENT/DETAIL
<ul style="list-style-type: none"> Documentation 	
Description of works, goods or services	
Information requirements	
<ul style="list-style-type: none"> Advertisement 	
Placement and coverage	
Description of works, goods and services	
Contact person	
Location and price of documentation available to applicants	
Proposed tender time	
Place of lodgement of invitations and closing date and time	
Invitations to attend opening	
Document Issued Register	
<ul style="list-style-type: none"> Evaluation 	

Rejected or late applications	
Confidentiality of information	
Selection criteria	
Documentation of procedures	
• Submission to Tender Review Committee	
• Acceptance	
Council minute	
Advice to applicants	
Invitations to tender	

Managing Contractor Safety

POLICY

Holroyd City Council is committed to ensuring the health, safety and welfare of Contractors and Sub-Contractors engaged to perform work for the organisation and also committed to ensure that Contractors and Sub-Contractors who are engaged to perform such works take suitable measures to protect their own employees, Council staff and members of the public. Contractors and Sub-Contractors are required to perform all work in a safe manner and in accordance with Council's Occupational Health & Safety (OHS) Policy and any relevant legislation.

Council will implement measures that are reasonable and practical for Contractors to meet their responsibilities in relation to OHS Legislation and the OHS Management System they provide.

SCOPE

This policy applies to all Contractors and Sub-Contractors that undertake any form of work for Holroyd Council and also any Council staff involved in the selection and/or supervision of contractors/subcontractors engaged to perform work.

All tenders will have an OHS component specifying Council's safety expectations and as such will be evaluated by Council's representative.

RESPONSIBILITIES

Council's Representative

- Determine the OHS requirements to be included into the work to be performed.
- Review contract documents and select a contractor that has provided evidence of safety systems in place in accordance with Council's requirements.
- Advise the Contractor of any foreseeable hazards that may affect the contractor performing the work.
- Take steps to control any identified risks/hazards in and around the work site.
- Supervise the works in progress and take action where non-compliance of OHS occurs.
- Investigate and report all injuries, accidents and near misses, and take action to remedy any of these occurrences.
- Report any breaches of Safety to Senior Management where penalties to the contractor may be imposed.

Contractor Responsibility

- Have in place an OHS Policy and Management System.
- Identify company persons responsible for safety.
- Produce relevant documents.
- Clearly identify measures to address hazards and risks associated with the works including controls.
- Implement preparations for emergencies and/or first aid treatment.
- On site supervision.
- Inspections and incident reporting.
- Demonstrate compliance with use of plant, hazardous substances, manual handling, staff training.
- Maintain a clean work site and orderly storage area.
- Consult with own employees and Council's appointed representative.
- A Child Protection declaration needs to be provided when working on children's services premises.

Non Conformance

Where non-conformance of OHS has been observed Council's representative will consult with the contactor and advise of the breach(s) and recommend appropriate action to remedy the situation. Serious and or wilful breaches of OHS against the terms of the contract may result in financial penalties or termination of the contract.

PROCEDURES

Where tenders/quotations are called the project manager or nominated representative for Council must determine the site specific OHS requirements to be included in the works.

Contractors will be asked to provide in the tender written details of the companies OHS Management system.

Once tenders have closed the OHS component of each tender will require evaluation by the nominated Council officer to ensure that the chosen tenderer can complete the work competently and in a safe manner.

Evaluation will include (but not limited to) checks of the OHS Management system, references of completed works, contractor public liability cover is current and records are kept up to date including hazardous substances, current licences to operate plant and equipment, staff having appropriate training etc.

Liaison with the Contractor will include providing all relevant details of known risks at the site and determine how the risks of conducting the work will be controlled by the contractor. This includes sighting written hazard identification, risk assessments and what controls are in place.

Arrangements will need to be made with the contractor on managing safety on a day to day basis including consultation, inspection of the work-site, supervision and remedial action where safety practices are not being observed.

Ensure appropriate signage is clearly visible and contains details of the name and contact telephone numbers (including after hours for emergencies) at the appropriate site. (This applies for construction contracts over \$250,000.)

Reporting of major non safety compliance must be reported to Senior Management.

RELEVANT LEGISLATION

- NSW Occupational Health & Safety Act 2000
- OHS Regulation 2001
- Associated Codes of Practice Australian Standards and Work Cover Guidelines

ASSOCIATED DOCUMENTATION

- Contractor compliance Guide
- OHS Contract Agreement



Managing Contractor Safety Policy

Contractor Safety Management Guide

INTRODUCTION

Holroyd City Council recognises that the health, safety and welfare of its employees and others in the workplace is of the utmost importance.

In accordance with the Occupational Health and Safety (OHS) Act 2000 and the OHS Regulation 2001 Contractors and Sub-Contractors must ensure they provide a safe workplace for their employees and others. Further, this obligation extends to ensuring that safe work systems have been developed and implemented in the workplace.

Council's Contractor Safety Management Guide has been prepared to inform contractors of Council's commitment to safety in the workplace and reiterate its expectation that contractors must perform all scheduled work in accordance with their submitted safety proposals and the OHS Act 2000; the OHS Regulation 2001 and Council's Policies & Procedures.

Contractors are required to provide relevant safety documentation that describes how works will be executed as part of the contract. As part of this condition contractors are required to complete and sign Council's "OHS Contract Agreement Form" that recognises that the successful contractor will adhere to the safety measures as described.

Please read the remainder of this document carefully and should you require further clarification contact either:-

1. Council's appointed representative (details on the tender) or
2. For general OHS issues Council's Training & Safety Coordinator

CONTRACT SAFETY

In accordance with the OHS Act 2000 Council has a "duty of care" to ensure that any work performed either by Council or on its behalf is conducted in a safe manner. The contractor is required to demonstrate their ability to perform such work in a safe manner.

Within Council's Contractor Safety Management Guide are various documents to assist compliance with Council's OHS requirements.

The minimum documentation a Contractor or Sub-Contractor must have is a safety management plan that includes provision for assessing foreseeable risks in performing the work, how they will manage on site hazards, emergency planning, consultation mechanisms and demonstrated compliance with OHS legislation.

Where a Contractor engages a Sub-contractor, then the same safety expectations will be placed onto the Sub-contractor and supervision of this work will be necessary to ensure compliance.

Council will make every attempt to consult with the contractor regarding safety implementation and resolve situations. Where breaches of safety are observed, this information will be conveyed to the site supervisor and remedies will need to be found as soon as possible. Council's Representative will have authority to stop work if the unsafe situation is ignored or not remedied in the agreed timeframe. Serious or wilful breaches of safety may result in termination of the contract. It is important that the potential contractor is aware of Work Cover Legislative requirements and the penalties that may be imposed on you and Council where safety is compromised.

Thank you for taking time to read this document. Further information can be obtained by contacting the liaison officer as specified in the tender.

RELATED DOCUMENTS

- i. Safety Document Examples
- ii. Document Checklist
- iii. Managing Contractor Safety Policy
- iv. OHS Contract Agreement Form
- v. Council OHS Policy

SAFETY DOCUMENT EXAMPLES

- 1. OHS Responsibility: Documentation should include the following:**
 - OHS Policy including but not limited to OHS Responsibility statements
 - Safety Management plans
 - Process of OHS issue resolution and OHS Consultation procedures (with staff and Council representatives)
 - Safety Policy
 - OHS Responsibility statements
- 2. Licences and Training - Evidence of holding current licences including other relevant documentation in relation to the work:**
 - Site Induction OHS General Induction and training records
 - Confined Spaces (where applicable)
 - Plant operation (where applicable)
 - Traffic Control (where applicable)
 - Hazardous substances (where applicable)
 - Manual Handling
- 3. Incident/Accident Reporting/Investigation - Evidence of the following systems:**
 - Incident report form
 - Investigation forms
 - Risk Assessment forms
 - Arrangements for First Aid treatment
- 4. Plant Safety - The contractor is to produce documents regarding the safe use of Plant where applicable:**
 - Safe Work Method Statements
 - Risk Assessments and associated controls
 - Maintenance Records
 - Fault reporting
- 5. Hazardous Substances**
 - Evidence is to be provided how the safe handling and storage of hazardous substances is achieved.
 - Risk Assessment forms
 - Register of chemicals used by the contractor
 - Material safety data sheets for chemicals used

- Safe Work Method Statements
- Safe handling procedures, personal protective equipment provided
- Training records of staff expected to use the chemicals

6. Manual Handling - Contractor should show evidence of:

- Risk Assessments for manual handling
- Systems used to control manual handling (lifting aids)

7. Electrical Usage - Contractor should show evidence of:

- Risk assessments and controls
- Testing/Tagging of electrical leads by certified person
- Use of earth leakage devices on equipment
- Safe Work Method Statements

8. Checklists

- Produce any check lists used by the contractor for the work to be undertaken
- Safety inspections
- Plant safety monitoring

Managing Contractor Safety Policy

Contractors Document Checklist

Company Name: _____

Contact Name: _____ **Telephone:** _____ **Mobile** _____

Council may require the Contractor to supply any of the following documentation prior to commencement of the contract works					
OHS DOCUMENTATION	COPIES INCLUDED		HCC CONFIRMATION		
	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Safety Management Plan	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
OHS Policy	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Safe Work Method Statements	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Risk Assessments At All Work sites	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Hazardous Substances Register & current Material Safety Datasheets (MSDS)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Hazard Report Procedures	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Fire Protection & Equipment Register	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Vehicle Movement Plans and Traffic Control Plans	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Plant & Equipment Register	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Registration Documents (All Items of Plant)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Training Records	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a

Licences And Training

Licences of Appropriate Class's For All Plant Operators	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
OHS General Construction Induction Card (All Employees)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Relevant Traffic Control Traffic Qualifications	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Incident / Accident Reporting Forms	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a

Insurance Documents

Public Liability Insurance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Workers Compensation Insurance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a
Motor Vehicle/Plant/Property Insurance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> n/a



Managing Contractor Safety Policy

OH&S Contract Agreement Form

COMPANY NAME:	
CONTRACT DESCRIPTION:	
CONTRACT NUMBER:	
I/we	(Principal Contractor)
Of	(Company Name)
At	(Address)
<p>I/we certify that I/we have read the Contractors Compliance Guide and agree to implement and abide by the safety requirements therein and perform work in accordance with the company OHS Management Plan as part of the tender.</p> <p><i>“the contractor is reminded that breaching any OHS requirement specified by Holroyd City Council or with respect to the OHS Act 2000 or OHS Regulation 2001 may result in penalties or cancellation of the contract depending on the nature of the breach.”</i></p>	
Contractor’s Signature:	Date: __ / __ / ____
Witness Signature:	Date: __ / __ / ____
OFFICE USE ONLY	
APPROVED BY:	Position:
COMMENTS: _____	

SIGNATURE:	Date: __ / __ / ____

ENVIRONMENTAL PROCUREMENT GUIDELINES

Answers to some of the following questions will need to be sourced from the supplier and/or producer.

Acquisition

The environmental objective is to avoid/reduce all unnecessary forms of procurement. Some consideration may include:

- Do other departments or sections within Council have a product surplus?
- Is the product available for short term rental?
- Can the Product be shared with other departments or sections (who may already have the material)?
- Is the quality being purchased appropriate?
- Can the product be easily relocated to another site/area?
- Are parts and service available locally?
- Is the product suitably labelled with relevant environmental information (including disposal, spill procedures etc)?

Waste Reduction

The environmental target is to reduce waste in general, specifically waste to landfill. Consideration should be given to:

- What is the durability of the product?
- Is the product easy and economical to service and maintain?
- Is the product designed to reduce consumption and minimise waste?
- Is the product reusable?
- Can the product be technically and economically recycled?

Material Source

The environmental objective is to use as few materials as possible as even renewable materials can place a burden on the environment. The following should be considered:

- What is the percentage of recycled material?
- What is the percentage of post-consumer materials that can be reused and/of recycled?
- Is the wood in the product from a sustainable well-managed forest?

Energy Efficiency

Energy efficiency is not just a cost issue. It has environmental impacts because producing energy consumes non-renewable resources. In Australia, most energy production also produces greenhouse gases. Consideration should be given to:

- Is the product as energy efficient as competitive products?
- Is a sleep/snooze mode available to conserve energy?
- Is the supply of electricity from rechargeable power sources?
- Are renewable fuels being used?
- Does this product require less energy to manufacture than competing ones?
- Are alternative technologies available which are more energy efficient?

Water Conservation

As for energy above, water should be conserved not just to save Council money but also to help the nation's scarce water resource. Questions that may be asked include:

- Is less or recycled water being used during operation compared to competing products?
- Is less or recycled water being used during production of the product?
- Is less pollution being produced in operation than competing products?

Hazardous Materials – Use and Disposal

The incorrect use of some materials can lead to land degradation and health and safety risks. Consideration should be given to:

- Is the product considered a hazardous material/substance?
- Is the product toxic to humans?
- Is it toxic to marine life?
- Is the product inflammable?
- Is the product biodegradable?
- Are the by-products of the product degradation safe for the environment?
- Are the products free of:

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- Banned substances?
- Heavy metals?
- Volatile organic Compounds (VOC)?
- Toxic chemicals?
- Is there any competitive product that uses fewer chemicals/pesticides?
- Does the product emit VOC's or other air pollutants?
- Are there special requirements for disposal (EPA Licence etc)?
- Are there special instructions for use of the product – to protect worker health and safety?

Service Provider Environmental Record

The service provider's environmental record is sometimes the only thing that can be checked. Where competing products have the same environmental impacts, the environmental performance of the service provider can assist in deciding the issue. Some questions that can be asked include:

- Does the service provider produce a public environmental report?
- Does the service provider have an environmental policy or Environmental Management System (EMS)?
 - If the service provider has an EMS is it certified?
- Has the service provider developed an environmental management plan and set quantified objectives and targets for environmental improvement?
- Does the service provider have programs in place or planned for promoting resource efficiency?
- Is there evidence of environmental or waste audits?
- Does the service provider have the capability to tender the bill electronically?
- Does the service provider carry out life-cycle analysis of the products or services (and its packaging)?
- Has any other established product verification process verified the environmental merits of the product?
- Has the service provider's environmental record been checked to verify:
 - That it has complied with all environmental legislation and regulations?
 - That all environmental issues are satisfactorily addressed?

(Information sourced from NSW Department of Public Works and Services, NSW Government Procurement Guidelines: Environmental Management, May 2000)

Example Advertisement – Expressions of Interest

HOLROYD CITY COUNCIL

Expressions of Interest – Tenders for Construction of Roads at Merrylands Contract No 1/06

Expressions of interest closing at 4.00pm on Wednesday 1 February 2006 are invited from contractors interested in tendering for the construction of Gold, Silver and Copper Streets, Merrylands. The work will comprise construction of roads, drainage, concrete footpaths and kerb and gutter.

It is expected that tenders will be called during March 2002 and the work completed by the end of May.

Expressions of interest documents are obtainable from Council's Customer Service Centre, telephone (02) 9840 9840 between 8.30am and 4.30pm on business days when payment of a non-refundable fee of \$.....Applicants are required to provide all details requested in those document.

Applications must be in a sealed envelope endorsed "Expressions of Interest – Construction of Roads – Merrylands, Contract No 1/06" and either placed in the tender box located in the foyer on the ground floor of the Customer Service Centre, Merrylands or posted to the address shown above.

Applicants and members of the public are invited to attend the opening of applications immediately after closing time.

A short list of applicants will be selected and invited to tender for the works.

Further information in relation to the proposed contract works may be obtained from Council's Engineer, Mr ***** on telephone (02) 9840 xxxx.

Yours faithfully

Merv Ismay
GENERAL MANAGER

Example Advertisement – Quotation

HOLROYD CITY COUNCIL

Tender for Construction of Roads at Merrylands Contract No 1/06

Tenders closing at 4.00pm on Wednesday 1 February 2006 are invited for the construction of Gold, Silver and Copper Streets, Merrylands. The works comprise construction of roads, drainage, concrete footpaths and kerb and gutter.

Tender documents are available from Council's Customer Service Centre telephone (02) 9840 98407 between 8.30am and 4.30 p.m. on business days upon payment of a non-refundable fee of \$.....

Tenderers are required to comply with the Local Government Tendering Regulation, 1999 and the NSW Government Code of Practice and Code of Tendering for the construction industry. The lowest or any tender will not necessarily be accepted.

Formal tenders must be submitted. The tenders must be placed in a sealed envelope endorsed "Tenders for Construction of Roads – Merrylands, Contract No 1/06" and either placed in the tender box located in the foyer on the ground floor of the Customer Service Centre, Merrylands or posted to the address shown below.

Tenderers and members of the public are invited to attend the opening of tenders immediately after the closing time.

Further information in relation to the proposed contract may be obtained from Council's
..... on telephone (02) 9840 xxxx.

16 Memorial Avenue,
Merrylands NSW 2160

Merv Ismay
General Manager

Example Invitation to Tender

HOLROYD CITY COUNCIL

20 February 2006

Mr A Jones
Jones Construction Pty Ltd
49 Industrial Road
PENRITH NSW 2750

Dear Mr Jones

EXPRESSIONS OF INTEREST – INVITATION TO TENDER FOR CONSTRUCTION OF ROADS AT MERRYLANDS - CONTRACT NO 1/06

Reference is made to your application dated 31 January 2006 expressing an interest in tendering for the construction of Gold, Silver and Copper Streets, Merrylands comprising the construction of roads, drainage, concrete footpaths and kerb and gutter.

All applications received were considered by Council at its meeting held on 15 February 2006 have to advise that your application has been successful and that you have been placed on a short list of tenders for the works.

You are accordingly invited to tender for the works. The closing date for tenders will be 4.00pm on Wednesday 2 March 2006

Tender documents are available from Council's Customer Service Centre (02) 9840 9840 between 8.30am and 4.30pm on business days upon payment of a non-refundable fee of \$.....

Tenderers are required to comply with the Local Government (Tendering) Regulation, 1999 and the NSW Government Code of Practice and Code of Tendering for the construction industry. The lowest or any tender will not necessarily be accepted.

Formal tenders must e submitted. The tenders must be placed in a sealed envelope endorsed "Tenders for Construction of Roads – Merrylands, Contract No 1/06" and either placed in the tender box located in the foyer on the ground floor of the Customer Service Centre, Merrylands or posted to the address shown above.

Tenderers are invited to attend the opening of tenders immediately after the closing time.

Further information in relation to the proposed contract may be obtained from Council'sEngineer,on telephone (02) 9840 xxxx.

Yours faithfully

Merv Ismay
General Manager

**Example Notification to Unsuccessful Applicant
Expression of Interest**

HOLROYD CITY COUNCIL

20 February 2006

Mr G Green
Green's Road Services Pty Ltd
17 Pastures Road
GREEN VALLEY NSW 2539

Dear Mr Green

**EXPRESSIONS OF INTEREST – TENDERS FOR CONSTRUCTION OF ROADS AT
MERRYLANDS - CONTRACT NO 1/06**

Reference is made to your application dated 31 January 2006 expressing an interest in tendering for the above works.

All applications received were considered by Council at its meeting held on 15 February 2006 and I have to advise that your application has been unsuccessful (*or if applicable, Council has declined to invite tenders from any applicants*).

I wish to thank you for your interest in this matter and trust you may care to respond to Council's requirements on some future occasion if the opportunity arises.

Yours faithfully,

Merv Ismay
General Manager

Example Summary of Tenders

HOLROYD CITY COUNCIL

Summary of Tenders/Expressions of Interest Received Clause 16 3(a) of the Local Government (Tendering) Regulation 1999

Tender/Expressions of Interest: _____

Contract Number: *(if applicable)* _____ File Number: _____

Date: _____ Department: _____ Section: _____

Contact Person: _____

Name & Address of Contractor	Details

Signed: _____ Department _____

Date: _____ Section: _____

Signed: _____ Department _____

Date: _____ Section: _____

**Example Notice Under Clause 20(b)
Local Government (Tendering) Regulation 1999**

HOLROYD CITY COUNCIL

RESULT OF TENDER

1. **Tender:**

2. **Council Meeting Date:**

3. **Item No:**

4. **Minute No:**

5. **Name of Successful Tenderer(s):**

6. **Amount of:** \$
(If no tenders are accepted by Council a statement in or to the effect of the following must be included in lieu of 5 and 6 above).

7. **Decision of Council:**

Council resolved not to accept any of the tenders and to postpone the works (or cancel, or carry out the works itself or call fresh tenders as the case may be)

or

Council resolved not to accept any of the tenders but to enter into negotiations with the preferred tenderer (name of tenderer). Council's reason for not calling fresh tenders is (explanation).

Signed: _____ **Date:** _____

Department: _____ **Section:** _____

Example Letter of Acceptance

HOLROYD CITY COUNCIL

LETTER OF ACCEPTANCE OF TENDER

20 March 2006

Mr A Jones
Jones Constructions Pty Ltd
49 Industrial Park
PENRITH NSW 2750

Dear Mr Jones

ACCEPTANCE OF TENDER – CONSTRUCTION OF GOLD, SILVER & COPPER STREETS, MERRYLANDS - CONTRACT 01/06

After considering all tenders received for the construction of the above works, it was resolved by Council at the Special Meeting on 14 March 2006 that:

“Contract No. *** for the construction and completion of *** at *** be awarded to *** in the amount of \$***.

For the purpose of administering the Contract, the date of acceptance shall be considered as the date of this letter and you are therefore required to commence work within the next fourteen days.

Prior to commencing on the site you are to provide Council with the following:

1. Notice in writing of the date of commencement of work on the site.
2. Name of Site Supervisor representing your Company.
3. A letter from your Insurance Company in the following form:

*“We have pleasure in advising that our clients, *** have in force Worker’s Compensation Policy No. *** and Public Liability Policy No. *** in the sum of \$***.*

Public Liability Principal Endorsement

It is agreed and declared that the Policy extends to indemnify Holroyd City Council (hereinafter called the Principal) for claims in respect of bodily injury or damage to property arising solely out of the business of the insured.

In the event of the Principal being entitled to indemnity under any other Policy of Insurance, the indemnity granted by such other policy will apply only in respect of an amount in excess of that provided herein, provided that:

- a) **It shall be a condition precedent to the liability of the Company – herein that the**

Principal hereby indemnified shall comply with and be subject to the terms, conditions and limitations of the Policy as though such Principal were the Insured.

b) The Limit of Indemnity shall apply inclusive of this Endorsement.

4. Security Deposit

In accordance with Clause 5.2 of the General Condition of Contract, you are to lodge a security deposit of \$*** (being 5% of the Contract Sum).

This deposit shall be lodged within fourteen days of the date of this letter, in accordance with Clause 5.4 of the General Conditions of Contract. The security deposit may be an approved Bank Guarantee, as detailed in Clause 5.3 of the General Conditions of Contract.

Council is currently holding a Preliminary Deposit of \$*** which will be refunded following your company's execution of the Formal Instrument of Agreement.

We look forward to working with you on this project.

Yours faithfully

Merv Ismay
GENERAL MANAGER

Example Notification to Unsuccessful Tender
HOLROYD CITY COUNCIL

20 March 2006

Mr G Green
Greens Road Services Pty Ltd
17 Pastures Road
GREEN VALLEY NSW 2539

Dear Mr Green

TENDER FOR CONSTRUCTION OF ROADS AT MERRYLANDS – CONTRACT NO 1/06

Reference is made to your tender dated 3 March 2006 for the above works and have to advise that your tender has been unsuccessful.

After considering all tenders received, Council resolved at its meeting held on 14 March 2006 to accept the tender submitted by Jones Constructions Pty Ltd.

I wish to thank you for your interest in this matter and trust you may wish to tender for Council's requirements on some future occasion.

Yours faithfully

Merv Ismay
GENERAL MANAGER

Example Notification of Non-acceptance of any Tenders

HOLROYD CITY COUNCIL

20 March 2006

Mr A Jones
Jones Constructions Pty Ltd
49 Industrial Road
PENRITH NSW 2750

Dear Mr Jones

TENDERS FOR CONSTRUCTION OF ROADS AT MERRYLANDS – CONTRACT NO 01/6

Reference is made to your tender dated 2 March 2006 for the above works.

Council considered all tenders at its meeting held on 14 March 2006 and resolved not to accept any of the tenders submitted and to postpone the works (or cancel the works or carry out the works itself or call fresh tenders as the case may be).

I wish to thank you for your interest in this matter and trust you may wish to tender for Council's requirements on some future occasions.

Yours faithfully,

Merv Ismay
GENERAL MANAGER

**Example Notification of Non-acceptance of any Tenders
where Negotiations are Proposed**

HOLROYD CITY COUNCIL

29 March 2006

Mr G Green
Greens Road Services Pty Ltd
17 Pastures Road
GREEN VALLEY NSW 2539

Dear Mr Green

**TENDERS FOR CONSTRUCTION OF ROAD AT MERRYLANDS
– CONTRACT NO 1/06**

Reference is made to your tender dated 3 March 2006 for the above works.

After considering all tenders, Council resolved at its meeting held on 14 March 2006 not to accept any of the tenders submitted but to enter into negotiations with the preferred tenderer Jones Constructions Pty Ltd. Council also resolved not to call fresh tenders in view of the urgency of the works and the possibility of obtaining a conforming tender by negotiation.

I wish to thank you for your interest in this matter and trust you may wish to tender for Council's requirements on some future occasion.

Yours faithfully

Merv Ismay
GENERAL MANAGER