

# CODE FOR TENDERS AND CONTRACTS



Policy Owner: CEO  
Reviewed and Approved: October 2023

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## 1. PURPOSE

The purpose of this Code for Tenders and Contracts (Code), is to provide a framework for best practice tendering and procurement processes, in line with the requirements of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulations 2015* (Regulations). This Code should be read in conjunction with these documents as well as the Procurement Policy. It should also be read in the context of Southern Waste Solutions (SWS), managing the business of C Cell Pty Ltd as Trustee of the C Cell Unit Trust (Trustee).

All procurement decisions will consider sustainable and ethical principles including managing the risk of modern slavery and maximising the opportunity for local suppliers.

This Code aims to:

- Promote open and fair competition;
- Maximise value for money (not limited to price);
- Provide opportunity for local business and industry;
- Encourage accountability and transparency; and
- Protect commercial-in-confidence information.

## 2. SCOPE

The tender requirements described in this Code apply to all tenders for the supply or provision of goods or services valued at or above \$250,000 (excluding GST).

## 3. DEFINITIONS

**Contract** means the contract for the carrying out of the work or the supply of goods and services to be entered into between the Trustee and the successful tenderer.

**Tender** means a tender submitted to the Trustee in respect of the work.

**Tenderer** means any party submitting a tender to the Trustee in respect of the work.

**Trustee** means the Trustee of the C Cell Unit Trust (i.e. Southern Waste Solutions).

**Work** means the work for the performance of which the Trustee has invited tenders including the provision of goods or services.

## 4. CODE

### 4.1. TENDERING PRINCIPLES

This Code has been developed in line with the following four principles:

- Open and effective competition;
- Value for money;
- Enhancement of the capabilities of local business and industry; and

- Ethical behaviour and fair dealing.

Below is a brief definition of each principle and what it means in practice.

#### **4.1.1. Open and effective competition**

The Trustee will ensure that the public tender process is impartial, open, and encourages competitive offers.

When required the Trustee will:

- use transparent public tender processes so that potential contractors, suppliers and the public can have confidence in the outcomes;
- adequately test the market by applicable processes, for example, by tender;
- establish and maintain procedures to ensure that all potential suppliers are provided with the same information relating to each tender or contract, and are given an equal opportunity to meet the tender requirements;
- treat all suppliers of goods and services consistently and equitably;
- ensure that sufficient time has been provided to allow bidders to prepare an adequate response when inviting tenders; and
- apply reasonable and uniform tender evaluation criteria for the assessment so that fair and equitable consideration is given to all tenders. Unless otherwise specified in the tender documentation, the following tender evaluation criteria will be used:
  - cost of goods or services, including ongoing maintenance costs over the lifetime of a product, if applicable;
  - experience, capability and resources of the tenderer to best meet the tender requirements;
  - quality of goods or services;
  - provision of services to best meet the tender requirements;
  - work health and safety requirements; and
  - risk management, including provision of required insurance policies, and financial security, where required.

#### **4.1.2. Value for money**

The Trustee will ensure that it achieves the required outcome at the most competitive price available, but value for money does not mean buying at the lowest price.

When required the Trustee will consider the benefits and costs of each tender response against defined evaluation criteria, as described in Section 4.1.1.

#### **4.1.3. Enhancement of the capabilities of local business and industry**

The Trustee will ensure that local businesses that are able to meet tender requirements are given the opportunity to participate in the tender process.

When required the Trustee will:

- encourage engaging with local businesses, providing they have suitable capacity and capability;

- ensure that discretionary elements of specifications do not prevent local businesses from competing; and
- at a minimum, always advertise each tender locally and advertise nationally when considered appropriate.

#### **4.1.4. Ethical behaviour and fair dealing**

This principle means that all purchasing is undertaken in a fair and unbiased way and in the best interests of the Trustee.

When required the Trustee will:

- be fully accountable for the tendering practices that it uses and the decisions it makes;
- ensure that decisions are not influenced by self-interest or personal gain (i.e. declining gifts or other personal benefits from suppliers);
- establish and maintain procedures to deal honestly with, and be equitable in the treatment of, all potential or existing suppliers;
- identify and deal with conflicts of interest;
- maintain confidentiality; and
- ensure that all tendering is undertaken in accordance with this Code and relevant legislation.

## **4.2. TENDER METHODS**

### **4.2.1. Open tender**

An Open Tender process is an invitation to tender by public advertisement. This process generally has no restrictions on submitters of a tender, providing they provide sufficient information with regards to set selection criteria.

### **4.2.2. Multiple-stage tenders**

A multiple-stage tender process may be used from time to time in cases where it is considered appropriate to:

- gain market knowledge and clarify the capability of suppliers. However, this process will not be used as a substitute for conducting market research;
- obtain industry input into specific proposals which are proposed from time to time;
- pre-qualify respondents for the following stage of this type of tender process (to reduce the cost of tendering); and
- ensure maximum flexibility is achieved throughout the procurement process.

#### **Stage one: expression of interest**

An expression (or a registration) of interest will, at the discretion of SWS' Chief Executive Officer (CEO), be used to shortlist potential suppliers before the following tender stage is commenced. Suppliers will be short-listed based on the evaluation criteria set out in the expression of interest. This will be based on the evaluation criteria set out in Section 4.1.1 of this Code and will include such matters as the experience, capability, resources, technical, managerial and financial capacity of respondents, and the methodology that will be implemented by the respondents to best achieve the tender requirements. Other specific

evaluation criteria may be included in the tender documentation, if applicable, for the required goods or services.

By proceeding through this initial expression of interest stage, opportunities for the reduction in the overall costs of the tendering process may be achieved, because this first stage will limit the request for tender to those respondents who have been assessed as best meeting the evaluation criteria set out in the expression of interest.

### **Stage two: request for tender**

At the completion of the expression of interest phase, short-listed respondents will be requested to tender for the required goods or services.

#### **4.2.3. Multiple-use register**

A multiple-use register is a method of pre-qualifying suppliers which have satisfied certain conditions for inclusion on the register, and is designed for contracts valued under \$250,000 (excluding GST). The register will not be established prior to undertaking an open tender (for contracts valued at or above \$250,000 excluding GST) or obtaining three written quotations (for contracts valued between \$100,000 and \$250,000 excluding GST).

The register, if established, will be reviewed by the Trustee at least every two years.

### **4.3. EXEMPTIONS**

Some exemptions from the tender requirements for the procurement of goods and services valued in excess of \$250,000 (excluding GST) may be considered in certain circumstances, including:

- an emergency if, in the opinion of SWS' CEO, there is insufficient time to invite tenders for the goods or services required in that emergency;
- a contract for goods or services obtained through, or supplied or provided by an agency of a State or of the Australian Government;
- a contract for goods or services supplied or provided by a council, a single authority, a joint authority or the Local Government Association of Tasmania;
- a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- a contract arising when the Trustee is directed to acquire goods or services due to a claim made under a contract of insurance;
- a contract for goods or services that is entered into at public auction; or
- a contract of employment with a person as an employee of the Trustee.

The SWS' CEO will report to the Board of the Trustee, detailing the circumstance, if this occurs.

The tendering process is not required for the procurement of goods and services valued under \$250,000 (excluding GST). For the procurement valued between \$50,000 and \$250,000 (excluding GST), at least three (3) written quotations needs to be obtained.

## **4.4. TENDER PROCESSES**

### **4.4.1. Invitations to Tender**

An invitation to tender (for an open tender) or expression of interest (for multi-stage tender) will be advertised publicly and will be open for a minimum of 14 calendar days.

The public notice will identify:

- clearly the nature of the goods and or services the Trustee requires;
- any identification details allocated to the contract;
- the period within which the tender must be lodged;
- where the tender must be lodged; and
- details of a contact person for the tender.

### **4.4.2. Amendment of tender**

The Trustee may amend a tender if it discovers a significant error or discrepancy. If this occurs, the Trustee will:

- provide an addendum to the tender to all tenderers;
- give tenderers sufficient time to consider the addendum; and
- allow any tenderer who has already submitted a tender to submit an addendum.

### **4.4.3. Tender opening**

Tender opening will not be held in public. The Trustee will ensure that records of received tenders are captured as they are opened.

### **4.4.4. Use of probity advisors**

The Trustee will use probity advisors when relevant circumstances arise.

### **4.4.5. Acceptance of Tenders**

Following the close of the tender period, submissions will be evaluated against assessment criteria and reported to the Board of the Trustee for decision.

The Trustee will use standard conditions of contract appropriate to the work or the supply of goods and services unless circumstances require otherwise. The Trustee may amend or use special conditions with standard conditions of contract.

The Trustee will not split tenders nor award variations from tenders.

### **4.4.6. Debriefing unsuccessful tenderers**

The Trustee will provide a debriefing to any unsuccessful tenderer who requests one. The purpose of the debriefing is to assist them in improving their bids in future. No confidential information about other tenders will be disclosed.

#### 4.4.7. Handling complaints

Complaints regarding tendering processes will be addressed promptly in the same manner as any other complaints.

### 5. RELATED POLICIES AND DOCUMENTS

- SWS Delegations Matrix
- Procurement Policy
- SWS Complaints Policy
- *Local Government Act 1993 (Tas)*
- *Local Government (General) Regulations 2015 (Tas)*

### 6. FURTHER INFORMATION AND DATE OF REVIEW

Policy Owner	CEO
Policy approved by	C Cell Board
Approval date	25 October 2023
Next review date (unless a need arises earlier)	October 2027

#### Further information

Please contact Southern Waste Solutions on 03 6273 9712 or via email [info@swstas.com.au](mailto:info@swstas.com.au).