

PROCUREMENT OF GOODS AND SERVICES

1. PURPOSE

The purpose of this Guideline is to encourage the highest standard of practice by Clubs in regard to the procurement of goods and services.

2. DEFINITIONS

'Contract' means a legally binding agreement involving mutual obligations.

'Fairness' means being just, equitable, reasonable and even-handed.

'Tender' means a written price, bid, quotations and consultant proposals for the supply of goods or services.

'Tenderer' means any party submitting tenders.

'Value for money' means the balance between the price of goods or services and other factors relevant to quality and meeting specific needs of Clubs, for example: experience, reliability, timeliness and service.

3. BACKGROUND

Among the most important decisions Clubs make are those relating to the provision of goods and services. Clubs purchase a wide array of goods ranging from food and beverage to gaming and office equipment. Outsourced services vary from professional (accounting, legal, etc) to cleaning, catering and maintenance. For major procurements such as building projects Clubs can select a supplier by way of tender.

4. GUIDING PRINCIPLES

Boards of Directors and management have a responsibility to ensure that purchases of goods and services are undertaken in an ethical manner and should be guided by the following principles.

Clubs should always seek to obtain value for money when making procurement decisions and balance both price and non-price (e.g. quality, member demand) considerations:

- all aspects of the procurement process should be conducted with honesty and fairness at all levels of the industry;
- Clubs and suppliers should conform to all legal obligations;
- material personal interests and conflicts of interest should be avoided, and any person (such as a Director or Secretary of a Club) with such an interest should declare that interest as soon as the conflict is known to that person; and
- inducements offered by suppliers relating to the purchase of goods or services should not be allowed to influence purchasing decisions.

5. DISCLOSURE

Consistent with the requirements of the *Registered Clubs Act 1976*, a Director of a Club who has a material personal interest including a pecuniary interest or a conflict of interest in a Club procurement should as soon as practicable declare the nature of the interest at a meeting of the Board of Directors.

Once a declaration has been made, notice of that declaration should be:

- recorded in a register in accordance with Section 16 of the *Registered Clubs Regulation*; and
- made available to members pursuant to Section 18 of the Regulation; and
- noted in the minutes of the Board Meeting that the conflict is declared.

6. TENDERING METHODS

Clubs should use the following processes when selecting a supplier of goods or services by means of a tender:

- parties should not seek or submit tenders without a firm intention to proceed;
- parties should not engage in any practice that gives one party an improper advantage over another;
- conditions of procurement should be the same for each tenderer on any particular project;
- Clubs should clearly specify their requirements in the tender documents and indicate criteria for evaluation;
- evaluation of tenders should be based on the conditions of procurement and selection criteria defined in the tender documents; and
- the confidentiality of all information provided in the course of procurement should be preserved.

Invited Tenders

There are four types of invited tender:

- **Open** - Clubs invite tenders by public advertisement without restriction on the number of tenders received. Tenderers are required to demonstrate they have the right product and the necessary skills, resources, management practices and financial capacity to meet Club requirements;
- **Selective** - Clubs with a continuous program of works, select a limited number of tenderers, from a register of approved tenderers;
- **Expressions of interest** - Clubs invite expressions of interest for specific projects or specific types of projects. Applicants are evaluated against published selection criteria and a number of those who best meet the required criteria are invited to tender; and
- **Pre-qualified** - Tenders are invited from a register of approved tenderers who are known to have the ability to undertake a specialist project of the type proposed.

Negotiated Tenders

Clubs may negotiate with a single supplier to achieve a desired outcome provided that:

- non-price selection criteria and evaluation are formally documented and accepted by the Club's Board of Directors; and
- for capital works projects, an independent qualified expert on costs such as a quantity surveyor reviews the fees, charges and costs quoted to be reasonable for the goods, services or works offered.

Negotiations should deal fairly with all tenderers in a manner which reflects the core principles of this Guideline. In some circumstances the Club may form the opinion that the lowest tendered price does not conform to the needs of the Club. An example may be the capacity of the tenderer to provide the necessary services within time, cost and ability. In that circumstance, the next lowest price may be used, providing it conforms to the needs of the Club and the reasons for choosing it are documented.

7. PREPARATION OF TENDERS

Tender Documents

The tender documents should:

- clearly define the contractual obligations of the parties;
- provide full details of all work covered by the tender;
- draw attention to any special conditions or obligations under the contract which depart from the Club's normal practice;
- designate any supporting information required from tenderers;
- nominate a person for the provision of additional information;
- provide positive encouragement to tenderers, allowing them the option, in addition to submitting a conforming tender, to show how an alternative might offer better value for money; and
- identify the selection criteria on which the assessment of tenders will be based.

Selection Criteria

Selection criteria should include but may not be limited to:

- conformity of goods or services to Club requirements;
- value for money;
- quality assurance;
- price compared with estimated cost;
- technical, management, physical, environmental management and financial resources;
- current commitments;
- innovation;
- contractor's previous performance; and
- industrial relations and work health and safety record.

Selection criteria should be clearly advertised in the tender documents. If criteria have not been included in the tender documents, the criteria should be determined prior to evaluation of tenders to ensure an objective and rational basis for the assessment. Weighting of selection criteria should be decided prior to the closing of tenders but should not be disclosed to tenderers.

8. PROCEDURES FOR INVITED TENDERS

Advertisement of Tenders

Where tenders are called by public advertisement, Clubs should provide equal opportunity to all qualified tenderers. Tenders should be advertised so as to attract suitable and competitive bidding and the advertisements should include as a minimum:

- adequate description of the goods or services required;
- advice from where tender documents may be obtained and particulars of the contact officer;
- precise details of where and when tenders will close;
- price of purchasing the tender documents, if applicable; and
- prominent notification of the need for awareness of the *Club Code of Practice* and *Best Practice Guidelines*.

In framing the advertisement, Clubs should allow a reasonable time for tenderers to make site visits and undertake any other work necessary to allow them to respond fully. Clubs should make the site reasonably available for inspection by tenderers.

Communication with Tenderers

Any information given to a particular tenderer should also be given promptly to all other tenderers.

Clubs should nominate a person with knowledge of the work to respond to all enquiries from tenderers. All such enquiries should be recorded, noting time and date of receipt and the issue discussed. Where an enquiry reveals a significant error, including ambiguities or discrepancies, information provided should be promptly conveyed in writing to all tenderers. Where the tender documents require a pre-tender conference, such conference should be minuted and the minutes should be forwarded to all tenderers, and become a part of the tender documents.

Amendments to Tender Documents

Where it becomes necessary to amend tender documents, the amendments should be advised as an addendum to all tenderers in sufficient time for all tenderers to properly and fully consider the addendum before tenders close. Each addendum should clearly

state that it is meant to be incorporated in the tender documents. Tenderers should confirm in their tenders that allowance has been made for each addendum.

Receipt of Tenders

All necessary arrangements should be made to safeguard the security and confidentiality of all tenders. Tender documents should specify the method and time for lodgement of tenders. Public acknowledgment of those tenderers submitting a tender should be made.

Late tenders should not be accepted, except:

- when it is clear that the cause of the lateness was beyond the tenderers' control; and
- when there is no possibility the integrity of the procurement process has been compromised.

Where a late tender is received, the time and date of receipt shall be noted on the document and endorsed by the recipient.

9. EVALUATION OF TENDERS

Tenders should be assessed by people who are free of any conflict of interest that might undermine the objectivity of the assessment. Tenders should be assessed in a consistent fashion against the selection criteria contained in the tender documents. If necessary, outside expertise should be called upon to help with assessment.

Any tender which does not comply with the tender documents should be rejected. Where a Club rejects a tender, the reasons for such action should be clearly documented by the Club. Should Clubs seek a revised tender, they should specify the conditions under which revised proposals are to be submitted. Where a tenderer offers an alternative, a comparable price for the alternative should not be obtained from other tenderers nor should the detailed alternative be used as the basis for the recall of tenders.

10. NEGOTIATIONS

Should none of the tenders be acceptable, negotiations may be conducted, preferably in the first instance with the least unacceptable with the aim of achieving a conforming tender. Unless time constraints prevent it, Clubs should first exhaust negotiations with the preferred tenderer(s), before negotiating with subsequent tenderers.

Clubs should not in post tender negotiation unfairly seek to trade off different tenderers' prices against others in an attempt to seek lower prices. This practice is sometimes known as 'bid shopping' and is unacceptable.

Written records of all negotiations should be maintained by the Club.

11. OUTCOMES OF TENDERS

Clubs may advise the name of the successful tenderer and the awarded contract sum. No information should be released in relation to unsuccessful tenders. Unsuccessful tenderers for major procurements should be advised (in writing) that their tenders have been unsuccessful.

For major procurements, the option of providing a debriefing for unsuccessful tenderers, as to how their tender performed against the selection criteria, may be pursued with the objective of enhancing future performance.

12. FAIR DEALING

Negotiations In any tender related negotiations or evaluation, the Club should deal fairly with all tenderers in a manner that reflects the core principles of this Guideline. Clubs should not in any way seek to trade off different tenderers' prices against others in an attempt to seek lower prices.

Confidentiality

Confidentiality of information, particularly intellectual property, should be preserved throughout the tender process. This means that information provided by a tenderer relating to a tender should not be divulged to another tenderer, at any stage during the process, or after it has been concluded.