

GUIDELINES FOR THE CONSIDERATION OF LATE TENDERS

1.0 BACKGROUND

A Council resolution passed on ***** (insert date) now allows Ipswich City Council to consider the possible acceptance of late tenders by evaluation committees if by accepting the late tender would not compromise the integrity of the tender process or gives any tenderer an unfair advantage.

Council should be cautious before accepting late tenders as the integrity of the process may be compromised if one or more tenderers are provided with extra time to submit tenders, thus providing an advantage in comparison to those tenderers who have submitted their tender on time.

Tenderers expect Council will operate consistently and fairly and that within Council there are systems and procedures to ensure good administrative decision making is integral in this process.

Council's Request for Tender document template and procurement guides allow for the consideration of late tenders by Council.

2.0 COMMENCEMENT

This guideline commences on [insert date] or the day after the day on which it is passed by Council resolution.

3.0 DEFINITIONS

A late tender is a tender that is lodged, submitted or received by the nominated electronic tender box system (currently LG Tenderbox) after the nominated closing time or date of a particular tender.

Late tenderer is the supplier whose tender has been received after the specified closing time.

4.0 APPLICATION

- Late tenders can be accepted for consideration by the evaluation committee if by accepting the late tender would not compromise the integrity of the tender process or gives any tenderer an unfair advantage.
- It is not possible to change a Request for Tender closing date or extend the closing time once the time allowed for receipt of tenders has passed.

- In considering/making the decision the authorised officer must consider the reasons for late lodgement, how late the tender was submitted, whether there had been any other late tenders or requests from other tenderers for late submission that had been rejected.
- The authorised officer should consider each tender on the basis of each specific circumstances and consider whether accepting a late tender into the evaluation process is likely to provide the late tenderer with an unfair advantage over other tenderers who submitted their tenders on time. For example, in many tender processes it would be unlikely that a tenderer who submitted its tender five minutes after the close time would have gained an unfair advantage over those tenderers who lodged their tenders prior to the closing time.

5.0 AUTHORITY TO MAKE THE DECISION

- The Evaluation Committee Chairperson has the authority to make the decision, after consideration of the circumstances and facts, as to whether a late tender can be considered for evaluation.
- The Evaluation Committee Chairperson should not be involved in a decision where a conflict of interest exists. If this is the case, the decision must be referred to the Chief Executive Officer of the relevant Council department.
- Advice from Council's legal unit, Procurement Manager or if appointed the probity advisor for the procurement process can be obtained if needed.

6.0 RECORD KEEPING TO ASSIST WITH DECISION MAKING

- Comprehensive and timely record keeping is central to making the determination as to whether a late tender is to be considered in an evaluation process. The *Public Records Act 2002* requires public agencies to make and keep full and accurate records of their activities. Therefore all information relevant to a decision-making process should be recorded.
- A tender lodgement log report from LG Tender box must be obtained as soon as practicable after the tender closing time.
- This report will provide a record of action taken by the late tenderer and the times that those actions have occurred whose tender has been received after the specified closing time.
- Any decision to accept a late tender must be well documented, including circumstances which gave rise to the tender being late and the rationale for the

consideration. It is suggested that such a decision is recorded in the evaluation decision log template. This information must be included in the Evaluation report.

7.0 PROCEDURAL FAIRNESS

Procedural fairness is about providing a person who might be adversely affected by a decision a fair hearing before the decision is made.

The late tenderer should be notified that their tender has been lodged, submitted or received after the tender closing time or date. The late tenderer must be given a reasonable opportunity and time to respond to Council as to the circumstances around their late tender.

Once the decision has been made by the authorised officer, the late tenderer must be notified of the outcome and the reasons for that decision. Providing reasons for a decision will help avoid misunderstandings, promote acceptance of adverse outcomes and reduce the likelihood of complaints, reviews and appeals.

8.0 RELATED LEGISLATION AND DOCUMENTS

Local Government Act 2009
Local Government Regulation 2012
Procurement Policy
Procurement Framework
Request for Tender template

