

## **SG3 COMPETITIVE PRACTICE**

*(To be read in conjunction with the competitive practice policy flow chart – located in the following document: “Attachments to Policy Manual 1999”)*

<b>Policy Type</b>	<b>Approved</b>	<b>Amended</b>	<b>Custodian</b>
Strategic	23.12.96	06.04.99 (SP153)	Director Corporate Services

### **Objective**

In accordance with Council’s Mission and Aspirations in the Fremantle City Plan, the City of Fremantle will make best use of the community’s physical, financial and human resources.

### **Higher Order Plan Fremantle City Plan**

- Council Achieving Its Aspirations - Local government at its most effective and efficient
  - Strategy 8 – Implement Council’s Competitive Practice Policy to ensure that Council’s services are competitive and that Council’s regulatory activities do not unnecessarily restrict competition:
    - Initiatives 98/99
      - Benchmark the provision of the City’s services to ensure value for money.
      - Conduct an audit of all business units to assess their competitiveness in accordance with the Competitive Practice Policy.
  - Strategy 9 – Comply with the requirements of the National Competition Policy Clause 7 Statement in support of the principles and objectives of the National Competition Policy, including:
    - Cost benefit analysis of Significant Business Activities;
    - Legislative review;
    - Review of monopolies;
    - Purchase/provider/regulator separations.
      - Initiatives 98/99
        - Implement tax equivalent pricing for services provided by significant business activities.
        - Implement a program of review of Council’s policies and local laws.

### **Legislative Framework**

Local Government Act 1995 – Section 3.18(3) ( c )

### **Decision Maker**

CEO

## **Delegation of Decision-Making**

N/A

## **Policy**

### Preamble

There are a number of significant internal and external factors impacting on the way the City of Fremantle will carry out its services and functions in the future in a competitive and well managed way:

- Fremantle City Plan
- Service review requirements
- Structural Reform Advisory Committee (SRAC) Report
- Local Government Act 1995
- National Competition Policy Clause 7 Statement
- Enterprise Agreements

These share many common elements and all tend to point towards the same general directions of competitive practice, improved management of performance, greater transparency and accountability. They generate a range of statutory requirements for Council to review the services and facilities it provides, publish business plans for commercial activities and four year Principal Activities Plans for major activities and to ensure that Council does not unnecessarily restrict competition.

### **1.0 Policy Objective**

In accordance with Council's Mission and Aspirations in the Fremantle City Plan, the City of Fremantle will make best use of the community's physical, financial and human resources by:

- 1.1 delivering quality, relevant, user-friendly and timely services at best cost;
- 1.2 regularly reviewing its services;
- 1.3 evaluating its performance and benchmarking against relevant others to ensure 'best practice';
- 1.4 charging fairly for its services, with users recognising and appreciating the need to pay for the cost of services which they use; and
- 1.5 continuing to deliver a significant proportion of its services in-house by its own employees provided that:
  - the services are delivered on a competitive basis; and
  - quality requirements are met within agreed cost benchmarks.

### **2.0 Policy Framework**

- 2.1 Appendix 1 provides details of the competitive practice framework in relation to this policy.

### **3.0 Service Review and Business Planning**

3.1 Council's policy objective will be achieved through the:

- identification of Services and Business Units as being or involving major trading undertakings (MTU's) or significant business activities (SBA's). These will be classified as "Substantial" Business Units. Other Business Units will be classified as "Basic" Business Units.

***(Competitive Practice Policy Flow Chart - Step 1);***

- annual development of business plans, benchmarking and the review of services provided by Council through the Service Review sub-committee of Council and the Services Delivery and Review Committee.

### **4.0 Significant Business Activities**

4.1 In accordance with Principle CN.6 of the Local Government Clause 7 Competition Policy Statement, Council will undertake a cost benefit analysis of each SBA to determine whether the benefits from implementation of competitive neutrality principles outweigh the costs.

***(Competitive Practice Policy Flow Chart - Step 2);***

4.2 Where a net benefit is NOT determined, Council will ensure that prices charged for goods or services take into account full cost attribution for those activities. Further evaluation of competitive practice may occur through benchmarking.

***(Competitive Practice Policy Flow Chart - Step 3);***

4.3 Where a net benefit IS determined, Council will evaluate whether the SBA operates as a monopoly or in a competitive market.

***(Competitive Practice Policy Flow Chart - Step 4);***

4.4 Where the SBA operates in a competitive market, Council will ensure that the prices charged for goods and services in respect of those business activities take into account, where appropriate:

- full Commonwealth and State taxes or tax equivalent systems;
- debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees;
- those regulations to which equivalent private sector businesses are normally subject; and
- reflect full cost attribution for those activities.

Further evaluation of competitive practice may occur through benchmarking (See Paragraph 6.0).

***(Competitive Practice Policy Flow Chart - Step 5);***

## **5.0 Monopolies**

- 5.1 Where a Business Unit or Service is a MTU/ SBA with a net competitive neutrality benefit and also a monopoly traditionally undertaken by Council employees, Council will open the provision of the service to competitive tender.

***(Competitive Practice Policy Flow Chart - Step 6);***

- 5.2 Prior to introducing competition for an existing monopoly, Council in consultation with affected employees, will undertake a review in accordance with Principle SR.3 of the Local Government Clause 7 Competition Policy Statement (Refer to Policy Framework - Attachment 1 for details).

***(Competitive Practice Policy Flow Chart - Step 7);***

- 5.3 Affected employees will be given 6 months notice of any proposal to call tenders for monopoly Council services and will be offered appropriate training in contract preparation and administration to enable them to prepare and submit a quality tender. Priority is to be given to:

- specification preparation;
- contract documentation preparation;
- understanding the roles of client/customer, superintendent, principal and contractor;
- contract supervision and administration including assessment of variations;
- team building; and
- employee communications.

## **6.0 Benchmarks**

- 6.1 All Council Business Units will measure performance based on their performance indicators and will benchmark their performance appropriately.

Where benchmarking (***Competitive Practice Policy Flow Chart - Step 8***) and performance evaluation of a service performed by employees (other than a service under paragraphs 4.4 or 5.0) reveals that it is not achieving the performance benchmarks required by Council, Council will consult with affected employees to assess the feasibility of achieving the required performance within an acceptable time frame of at least 6 months but not more than 12 months through consideration of:

- the level of any capital injection and other resources including training required and the potential return on capital;
- the degree of competitiveness of the service; and
- the preparedness of the service to change.

***(Competitive Practice Policy Flow Chart - Step 9);***

- 6.2 Where Council is not satisfied that a service can achieve best practice within an acceptable time frame and at reasonable cost, Council will open the management or provision of the service or activity (as appropriate) to competitive tender. Affected employees will be given 6 months notice of any proposal to call tenders for Council services and will be offered appropriate training in contract preparation and administration to enable them to prepare and submit a quality tender.

***(Competitive Practice Policy Flow Chart - Step 10);***

- 6.3 Where Council is satisfied that a service can achieve best practice within an acceptable time frame and at reasonable cost, Council will provide the required level of support ***(Competitive Practice Policy Flow Chart - Step 11)*** and will review the service's performance at the end of the accepted time frame ***(Competitive Practice Policy Flow Chart - Step 12)***. If performance at that time still does not achieve the performance benchmarks required by Council, Council will open the management or provision of the service or activity (as appropriate) to competitive tender. Affected employees will be entitled to submit an in-house tender bid. ***(Competitive Practice Policy Flow Chart - Step 13)***.

**7.0 Tender Specifications, Evaluation and Selection**

- 7.1 The specification of tenders and evaluation and recommendation of tender bids received is to be undertaken by an evaluation group independent of any employees responsible for the preparation and submission of in-house tender bids. Tenders selected for the provision of services shall be shown to be the most advantageous to the City and will not necessarily be the lowest priced tender received.
- 7.2 Evaluation criteria to determine the most advantageous tender submitted are to be established prior to a tender being advertised. The tender evaluation will include consideration of:
- the capacity to specify the service in a way which will ensure that Council's goals and quality standards will be met;
  - the degree of risk to the community/customer of difficulties with service delivery;
  - the capacity and structure to allow a future in-house bid to be successful, even if the service is initially won by an external contractor.

**8.0 Employee Redeployment**

- 8.1 In accordance with the City of Fremantle's Enterprise Agreement 1995 no forced retrenchments will occur prior to 30 June 1997 except as a result of reduced Government funding.

8.2 Tender documentation will require a successful external contractor to provide employment for affected Council employees for a period of 12 months, subject to satisfactory performance, in the event of winning a tender.

8.3 If Council employees would be made redundant by acceptance of an external tender, Council will consider whether the employees can be redeployed within the Council or employed by the external tenderer. Any remaining redundancy costs may be taken into account in tender evaluation, but only the first time a service is tendered. Council will consider such redundancy costs on the basis that payments are amortised over no less than 5 years, even where the contract is for a shorter period.

## **9.0 Tendering For External Work**

9.1 The submission of tender bids by the City for the provision of services or the execution of works for other municipalities and government authorities is delegated to the CEO.

9.2 A justification statement for such work must be prepared including as a minimum:

- where the service is to be provided;
- who is the customer;
- how will the service be provided;
- estimated additional costs (including reduced investment income on working capital), revenues and profits
- risks to Council and risk based return; and
- implications in terms of staffing, plant and equipment, impact on existing service delivery, likely affect on the City of winning/losing the tender bid.

## **10.0 Competitive Pricing**

10.1 All in-house tenders for the provision or management of services or activities will be on the basis that the prices charged for goods and services in respect of those business activities take into account, where appropriate:

- full Commonwealth and State taxes or tax equivalent systems;
- debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees;
- those regulations to which equivalent private sector businesses are normally subject; and
- reflect full cost attribution for those activities.

## **11.0 Financial Surplus or Deficit**

11.1 All surpluses generated by successful in-house contracts for market tested services or contracts for external work will be preserved in a City-

wide Reserve Fund with the purpose of acting as a cushion against the impact of any financial losses incurred by successful in-house contracts. The level of the reserve is to be reviewed annually and transfers made to the Municipal Fund as appropriate.

- 11.2 Successful private contractors may be encouraged to purchase or hire the City's surplus assets.

## **12.0 Local Laws**

- 12.1 All existing local laws under the Local Government Act 1995 or other Acts administered by Council will be progressively reviewed by 31 December 1999 to:

- clarify the objectives of the Local Law;
- identify the nature of any restriction on competition;
- analyse the likely effect of the restriction on competition and on the economy generally;
- assess and balance the costs and benefits of the restriction; and
- consider alternative means for achieving the same result including non-legislative approaches.

- 12.2 From 1 January 1997 all proposals for new or amended local laws are to be accompanied by evidence these issues have been considered.

## **National Competition Policy Implications**

Clause 7 Competition Policy Statement:

Principle CN.6 specifies that:

“Local Government is not required to implement the competitive neutrality principles unless the benefits to be realised from implementation outweigh the costs.”

Principle SR.3 specifies that:

“Once a local government makes a decision to introduce competition into a sector traditionally supplied by a public monopoly, and before that sector is corporatised or competition is introduced, local government will undertake a review into:

- The appropriate commercial objectives for the public monopoly;
- The merits of separating any natural monopoly elements from potentially competitive elements of the public monopoly;
- The merits of separating potentially competitive elements of the public monopoly;
- The most effective means of separating regulatory functions from commercial functions of the public monopoly;
- The most effective means of implementing the competitive neutrality principles set out in this statement;
- The merits of any community service obligations undertaken by the public monopoly and the best means of funding and delivering any mandated community service obligations;
- The price and service regulations to be applied in the industry; and

- The appropriate financial relationship between the owner of the public monopoly and itself, including the rate of return, dividends and capital structure.”

### **Policy Implementation Steps**

This policy specifically addresses these issues:

- Business Planning Process to be implemented and business plans updated annually.
- All Business Units to undertake benchmarking on an ongoing basis.
- An external review of the benchmarking process to be set in place.

### **Reporting Arrangements on Decision-Making under this Policy**

Recommendations arising from the benchmarking process and external review to be referred to Council.

### **Policy Review Date**

March 2003





