

GRAFTON CITY COUNCIL

RESPONSE TO

NATIONAL COMPETITION POLICY

INCLUDING

COMPETITIVE NEUTRALITY
TRADE PRACTICES ACT
BENCHMARKING
COMPETITIVE TENDERING



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Local Government Reform

Introduction

A major reform to NSW local government was the Local Government Act 1993. Consistent with the general trend of microeconomic reform at other levels of government, the Act introduced a number of reforms to increase the transparency and accountability of local government, and to encourage efficiency and effectiveness in service delivery. The reforms include:-

- new accounting standards
- publishing three year forward plans of expenditures, and one year forward plans of revenues including proposed rate changes.
- requirements to report performance indicators on asset management, service delivery and user charges.
- more flexible workplace and organisational practices.
- an integrated approvals system for planning, building, subdivision and environmental controls.

The latest major reform to be introduced to NSW local government is the National Competition Policy.

Background

At a meeting of the Council of Australian Governments in April 1995, Heads of Government signed an agreement to implement **national competition policy** reforms. The purpose of the reforms was to establish a national competition policy framework for an open, integrated domestic market for goods and services. This was to be achieved by removing unnecessary barriers to trade and competition. The competition reforms are applicable to the activities of Federal, State and local government.

In June 1996, the NSW Government released a **policy statement** on the application of national competition policy to local government. The statement included reference to the implications of the Competition Principles Agreement (CPA) and *Trade Practices Act 1974* for local government, and a number of associated reforms. These reforms included competitive tendering and benchmarking.

The major items in this reform agenda are:-

Competitive Neutrality
Trade Practices Act
Benchmarking
Competitive Tendering

Each matter is dealt with separately and Councils response is shown in ***bold italics***.

National Competition Policy

Competitive Neutrality

Introduction

The Competition Policy Act (CPA) states that the objective of the competition neutrality policy is to eliminate resource allocation distortions arising out of public ownership of entities. The principle of competitive neutrality is based on the concept of a 'level playing field' between persons competing in a market place, particularly between private and public sector competitors. Essentially, government businesses, whether Commonwealth, State or local, should operate without net competitive advantages over other businesses as a result of their public ownership.

The underlying philosophy is that a 'level playing field' will enhance competition. Competition can promote greater efficiency and lower costs to government and the community. The government recognises that policies to enhance competition may have social impacts. However, if the application of competition policy is thought to impose net costs on the community, and this is supported by a benefit/cost analysis, then an exemption from the application will be allowed.

Government agencies may receive a number of competitive advantages which the private sector competitors will not have, or may not include certain costs which the private sector includes in pricing. Councils also have a number of competitive disadvantages compared with the private sector. These include: limitations on borrowings, reduced flexibility to respond to market pressures, requirements for public accountability, government intervention and monitoring, specific legislative duties, awards, and community service obligations.

It is important to note that competition policy does not require that individual businesses compete on an equal footing. Councils and other government agencies will have advantages through size, buying power, specialist expertise, assets etc, in the same way that the private sector will have its own characteristics.

Business Activities

In relation to local government, it is accepted that some business activities will have a significant economic impact. The threshold of \$2M annual sales turnover/ annual gross operating income has been chosen, in consultation with local government, as a reasonable measure of economic significance for the purpose of applying a corporatisation model and pricing requirements. In these cases, the benefits of applying competitive neutrality are expected to outweigh the costs. Businesses over this threshold are called **Category 1** business activities.

A council's business activities may be significant in a local or regional context, regardless of the \$2M threshold for adoption of specific requirements. Business activities under this threshold are called Category 2 businesses. In the treatment of these businesses council must still be guided by the general expectation that "when councils compete in the market place they should do so on a basis that does not utilise their public sector position to gain an unfair advantage over a private sector competitor." Councils are required to adopt competitive neutrality with as many Category 2 businesses "as is practicable".

It must be stressed that the principle of competitive neutrality **applies only to the business activities of councils** and not to their non-business, non-profit activities.

As a first step, council needs to look at the wide range of functions it performs to determine what its business activities are. The policy statement sets out a small number of activities which are classified by the Australian Bureau of Statistics as business activities. Council should therefore regard these activities as Category 1 businesses. They are:-

- Water supply
- Sewerage services
- Abattoirs
- Gas production and reticulation

A guide to determining whether an activity is a 'business' is whether or not that activity is or is likely to be subject to competition by other providers, and the extent of that competition. Equally, councils need to consider the nature, importance to customers, and economic impact of the activity in question. If an activity is subject to competition, is significant to the people who are supplied by it and has an impact on the local, regional or broader economy, then there is a likelihood that it is a business activity.

From July 1997 Councils were required to identify their Category 1 and Category 2 businesses. A review of business activities will happen on an annual basis.

Requirements

The specific requirements of competitive neutrality for council are summarised below:-

Type of Business Activity		Timeframe
Category 1	Category 2	
Establish a complaints handling system for competitive neutrality issues	Establish a complaints handling system for competitive neutrality issues	From 1 July 1997
Separate internal reporting for business activity	Council may determine extent of separation of the activity	From 1 July 1997
Apply full cost attribution, including: <ul style="list-style-type: none">• tax equivalent payments• debt guarantee fees• return on capital	Adopt full cost attribution where practicable. Can use % rule of thumb margin	Phased implementation from 1 July 1997 and full implementation on 1 July 1998
Make subsidies to business activities an explicit transaction	Make subsidies to business activities an explicit transaction	Phased implementation from 1 July 1997 and full implementation on 1 July 1998
Comply with the same regulation as the private sector	Comply with the same regulation as the private sector	Councils already comply. Not applicable.

In addition, the Annual Report must list the identified businesses, their performance outcomes, pricing policy, financial outcomes and any neutrality complaints.

Councils Response:

- *The activities for water and sewerage services are classed as Category 1 business*
- *At this stage, Council is of the view that Grafton City Council has no Category 2 businesses other than the Crown Hotel which is temporarily being directly operated by council before being leased to a third party. While operated by a lessee, the Crown Hotel will not constitute a Category 2 business.*
- *Full costs, including Tax Equivalent Regimes (TER), will be attributed to identified businesses in accord with Department of Local Government Pricing Guidelines and Council's 'Full Cost Recovery' pricing principle*
- *Full costing principles (direct/indirect) will apply. Corporate and Other Support net costs will be attributed to all other activities. Council's pricing principles will apply*
- *Costs of governance, including democracy, service specification, strategic planning, statutory/community reporting and revenue raising, will remain attributed to all activities.*
- *Council will retain ownership of the assets employed by these activities.*

Pricing Requirements :

Tax

Some taxes are already charged to council business : FBT, FID, payroll tax. New taxes are :

Tax Equivalents Regimes (TER)

- ***TER payments will be made from water and sewerage activities to council (internal transaction) and disclosed in internal reports and notes to accounts***
 1. ***Income tax :***
 - ***not used for purpose of pricing calculation;***
 - ***used for assessing the rate of return on capital invested (current tax rate 36%)***
 2. ***Sales tax:***
 - ***not used for work undertaken for council***
 - ***will apply (current average 22%) to all other goods purchased***
 3. ***Land tax:***
 - ***will apply (current 1.85% + \$100 on LV) to land used exclusively by identified activities, and grouped if an activity uses more than one parcel of land exclusively***
 4. ***Stamp duty :***
 - ***will apply to Office of State Revenue identified documents, including transfer of property, assets, leases on property, mortgages***
 5. ***Rates:***
 - ***will apply to property used exclusively by identified business, unless rate exempt under ss555-558 of LG Act.***
 - ***reliable proportion of council office/depot rates will apply***

Loans and Debt Guarantee Fees

- ***the cost difference between the normal local government interest rate cost and current commercial rate will apply for identified activities***

Return on Capital Invested

- ***will be used as a measure of efficiency and for benchmarking; and ensuring the return is sufficient to recover costs and replace assets to maintain service standards***
- ***prices will not be raised to generate a rate of return***

Dividends

- *will be included in pricing calculations*
- *will be annually paid on profits as calculated on the greater of the following :*

*1 year of total life (1 yr in 100yr life = 1%) of
WDV of infrastructure assets engaged*

or

*equivalent of Commonwealth 10 year bond return
rate on new capital investment*

Subsidy

- *identified activities will not be subsidised by other activities or funds, in line with the 'full cost recovery' pricing principle*
- *an internal loan may be provided, from general revenues, to an activity*

Cost Distribution

Overview

Corporate support costs are pooled and distributed through various cost drivers (indicated below) to other programs/activities . Identified below are the activities and services of council that have a direct effect/cost on Category 1 businesses.

General Management

- *to provide guidance to Council*
- *to represent Council to other levels of government, other local bodies, private enterprise and community organisations.*
- *to provide leadership and direction to staff*
- *effectively co-ordinate the general management of Council's programs and activities at the corporate level*
- *ensure the proper and efficient day to day management of council*
- *provide detailed and timely information to Councillors*
- *promote a positive image of Grafton City Council*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Corporate Services

- *ensure council compliance with legislative requirements*
- *provide legal services (easement/property acquisitions)*
- *guide Human Resources, Finance, Information Systems, Administration and Records Management*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Human Resources

- *develop and administer salary system and corporate training programs*
- *administer workers compensation and rehabilitation programs*
- *conduct induction/orientation programs*
- *develop and implement EEO programs*
- *administer consultative and safety committees*
- *monitor award compliance*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the basis of the recurrent cash expenditure cost of HR administration divided by equivalent full-time staff multiplied by the number of equivalent full-time employees per activity.

Council

- *direct and control the affairs of Council*
- *to create and review council's policies and objectives and criteria relating to the exercise of council's regulatory functions*
- *to review the performance of the council and its delivery of services, the management plans and revenue policies of the council*
- *to ensure the optimum allocation of the council's resources*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Financial Services

- *preparation of Financial Plan*
- *production of General Purpose Financial Reports,*
- *quarterly budget reviews*
- *general accounting functions (creditors, receipting, payroll etc)*
- *review accounting and fraud control procedures*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the basis of the number of financial transactions (averaged, based on previous year) for labour, plant, stores, creditors and debtors as a percentage of total financial transactions multiplied by the recurrent cash expenditure.

Information Systems

- *provide and maintain PC and mainframe hardware and software*
- *monitor Local Area Network*
- *educate users in software applications*
- *implement and review IT strategy*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Administration

- *ensure council compliance of the Local Government Act 1993 and associated Acts*
- *administer purchase of motor vehicles*
- *provide legal services*
- *manage Council's insurance portfolio*
- *develop risk management policies*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Records Management

Records

- *administer, maintain and archive subject and property files*
- *process and allocate incoming documents*
- *purchase printing and stationery needs*
- *provide organisational printing services*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 15% water and 25% sewerage multiplied by the recurrent cash expenditure.

Strategic Services

- *develop strategic plans for the development of Grafton having regard to the environmental heritage, social and economic needs of the community*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 10% water and 10% sewerage multiplied by the recurrent cash expenditure.

Development Control

- *fulfil council's legal and statutory obligations to development*
- *process development applications that recognise community needs and considerations*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 10% water and 10% sewerage multiplied by the recurrent cash expenditure.

GIS Operations

- *maintain spatial data of council (including base cadastre and city infrastructure)*
- *ensure data integrity*
- *maintain links to textual attributes*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 30% water and 30% sewerage multiplied by the recurrent cash expenditure.

Environmental Control

- *prepare state of the environment reports*
- *monitor noise and environmental pollution*
- *conduct food and health inspections*
- *monitor the quality of the contaminants of the Clarence River*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 5% water and 5% sewerage multiplied by the recurrent cash expenditure.

Engineering Services

- *provide an appropriate departmental structure to ensure effective services to customers*
- *monitor programme delivery in terms of financial, staff and plant/equipment resources*
- *review policy and procedures*
- *provide reports to Council*
- *develop strategic paths for departmental programmes and initiatives*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 25% water and 15% sewerage multiplied by the recurrent cash expenditure.

Works Depot

- *purchase and store materials and equipment*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 25% water and 15% sewerage multiplied by the recurrent cash expenditure.

Plant Vehicle Workshop

- *maintain council plant and equipment*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 20% water and 20% sewerage multiplied by the recurrent cash expenditure.

Asset/Design Services

- *To develop and implement information systems for assets*
- *assess the current physical condition of councils infrastructure assets*
- *develop asset renewal program for council infrastructure*
- *provide strategic advice to management*

Basis of Cost Distribution

Distribute costs to water and sewerage management activities on the estimated basis of 20% water and 20% sewerage multiplied by the recurrent cash expenditure.

Competitive Neutrality Complaints

Under the principles of national competition policy, Commonwealth, State and local governments must each establish an effective system to deal with complaints relating to competitive neutrality in respect of their businesses.

Complaints regarding competitive neutrality will be made either to council directly or to the State Government. The Department of Local Government has been nominated as the State agency responsible for handling these complaints. Once a complaint is referred to the Department, the Government has agreed that all such complaints will be forwarded to councils for resolution in the first instance. The Department of Local Government will pursue any complaints which have not been adequately resolved by council.

A complaint regarding competitive neutrality is:

- A complaint that council has not met its requirements under the Policy Statement or pricing and Costing for Council Businesses - "A Guide to Competitive Neutrality". This includes a concern that council has not established an effective complaints handling mechanism;
- A complaint that council has not abided by the spirit of competitive neutrality in the conduct of a business activity.

A competitive neutrality complaint is not:

- a complaint regarding the level of service provided by a business activity;
- a complaint regarding the cost of the service;
- a complaint regarding trade practices laws and their application to councils.

Councils Response:

Council has developed the following policy in relation to competitive neutrality complaints:-

- ***How to lodge complaints***
complaints are to be written and addressed to the General Manager
- ***Responsibility for handling complaints***
The Director of Corporate and Community Services will be responsible for the handling of complaints.
- ***How the complaints are to be recorded***
Complaints will be recorded on Councils complaints/service request database and on the NCP complaints file. (File No. 390/C)
- ***Time limits for responding to complaints***
All complaints will be dealt with within fourteen (14) days of being received.
- ***Remedies to complaints***
Remedies to complaints will be one of the following:-
 - a) *to provide more information to the complainant for a more accurate understanding of competition policy;*
 - b) *to investigate/review council's business activity if a legitimate complaint is made;*
 - c) *to change council's business practice where a complaint is justified.*

Trade Practices Act

Introduction

The Conduct Code Agreement reached between the Commonwealth, the States and Territories will result in State and Territory law in effect applying Part IV of the Trade Practices Act to areas within State and Territory jurisdiction.

In broad terms, the Trade Practices Act applies to the activities of trading and financial corporations, and in respect of interstate and foreign trade. Local government bodies would for most part be corporations.

This will mean local government bodies will be subject to the direct application of the prohibitions which apply in Part IV of the Trade Practices Act irrespective of whether or not they are deemed to be trading and financial corporations. The combined effect of Commonwealth, State and Territory competition legislation will be that all persons in Australia will be subject to all anti-competitive prohibitions in Part IV.

Effect on Councils

There do not appear to have been many instances of action taken against local government in respect of Part IV infringements. The provisions of Part IV which may be of particular significance to local government are:

Section 45

Section 45 prohibits agreements, arrangements and understandings which have the purpose or effect, or likely effect, of substantially lessening competition.

It is more likely to be of relevance to local government bodies than the other provisions of Part IV since it is the provision against which policies of 'buy local' and 'preferred supplier status' could fall to be measured. They have been identified as under threat from National Competition Policy reforms. The policies involve giving a preference in commercial dealings such as purchasing and tendering for works to suppliers from within the local or regional area.

Whether implementation of one of these policies involved an infringement of s.45 would depend on many factors, including:-

- (a) whether implementation was in pursuance of a law of the State or Territory which fell within a S.51 exemption, ie carrying out the policy was specifically approved or authorised by law;
- (b) whether the practice had been authorised by the Australian Competition & Consumer Commission (ACCC) on public benefit grounds;
- (c) whether a 'licence' was involved; and

- (d) whether it could be said that the practice resulted in a substantial lessening of competition in a market.

Section 45 also prohibits arrangements between competitors that they will not acquire goods or services from, or supply goods or services to, another person (primary boycott). While this provision would apply to local government bodies, as to any other enterprise, no special implications are seen in its application.

Council Response:

Grafton City Council will have to ensure it's purchasing arrangements do not favour one supplier over any other. Quotation and tendering guidelines must be adhered to (ie best value for money and justification of selection). Council policy for local preference is being checked with legal advisors and the Local Government Association.

Section 45A

Section 45A in effect makes price fixing or price maintaining agreements unlawful *per se* regardless of whether they involve a substantial lessening of competition.

Local government bodies will become primarily liable should they engage in this type of behaviour. However, even under the previous law they might not have escaped liability had the price fixing agreement been in conjunction with a *defined* trading or financial corporation.

Council Response:

No real effect on Grafton City Council, however, if council adopts user-pay charges for water fund, it should do so independently of Lower Clarence County Council. Staff and council must observe the TPA and not engage in price fixing.

Section 45D

Section 45D prohibits persons acting in concert to prevent or hinder third persons from supplying goods or services to, or acquiring goods or services from, a fourth person, where at least one of the third or fourth persons is a trading or financial corporation.

This provision had potential application to local government before amendments, and the amendments have not changed this.

Council Response:

No real effect on Grafton City Council, however staff and council must be aware of their obligations under the TPA.

Section 46

Section 46 prohibits a corporation which has a substantial degree of power in a market from using that power to get rid of competitors or to prevent others from entering the market or any other market or engaging in competitive conduct in that or any other market.

The application of s.46 should not have any special implications, but they will need to be mindful of their obligations under the section, as would any other prudent corporation, where they exercise market power.

Council Response:

No real effect on Grafton City Council, however staff and council must be aware of their obligations under the TPA.

Section 47

Section 47 prohibits a corporation from making it a condition of supplying goods or services that the buyer must not take a competitor's goods or services or must take goods or services from a third person.

The section does not seem to have had any particular implications for local government in the past.

Council Response:

No real effect on Grafton City Council, however staff and council must be aware of their obligations under the TPA.

Section 48

Section 48 prohibits resale price maintenance, that is the practice of a supplier requiring the person to whom it supplies goods or services not to sell those goods to someone else at less than a price set by the supplier.

This provision applied to local government bodies before the amendments made by the Competition Policy Reform Act (CPR)1993.

Council Response:

No real effect on Grafton City Council, however staff and council must be aware of their obligations under the TPA.

Section 50

Section 50 prohibits mergers and acquisitions which have the effect or are likely to have the effect of substantially lessening competition in a market.

The section potentially applied to local government bodies before the CPR Act reform in that it prohibited 'persons' from acquiring shares or assets in corporations. No special implications are seen in the wider application of the section to local government.

Council Response:

No real effect on Grafton City Council, however staff and council must be aware of their obligations under the TPA.

All the conduct discussed above, except misuse of market power (s.46), can be exempted from the law if there is associated countervailing public benefit.

Under the authorisation and notification provisions of the Trade Practices Act the ACCC has power to grant immunity from legal proceedings for some arrangements or conduct that might otherwise breach the restrictive trade practices provisions.

Council Response:

Although the above would appear to have minor ramifications to Grafton City Council, all councillors and officers should, by adopting this report, now be aware that Part IV of the Trade Practices Act is applicable to the activities and decision making processes of Council.

Council and staff need to be very aware of approaches from business operators as discussions could breach the Trade Practices Act.

Benchmarking

Introduction

Local councils provide a number of important services to the community such as roads, aged care facilities, water and sewerage. Improving the efficiency and effectiveness of these services is important because of:

- the impact these services have on the local community
- the burden on the community of funding these services through rates, user charges and general taxation revenue collected by the State and Federal governments.

Historically, publicly provided services at all levels of government have been excluded from the competitive pressures that drive efficiency and effectiveness in the market economy. However, the outputs of public agencies are typically traded in markets where neither prices nor quality are free to adjust in response to consumers' preferences. In many cases, prices for public services do not exist. For most public services an alternative to market signals, such as performance measurement, is needed to reach acceptable standards of performance and to guide decisions.

What is Benchmarking?

Benchmarking generally refers to the process of comparing an organisations performance with some standard. The benchmark can be the previous performance of the organisation (benchmarking over time), or other organisations (benchmarking across an industry or over industries). The term 'benchmarking' can also be used in a more specific sense and refer to the process of comparing with the best performers in an industry.

Benchmarking can be used as an important technique, offering opportunities for local government to improve performance. To date, the technique has been used mainly by the private sector where it has stimulated significant improvements in business performance.

Benchmarking can be particularly important where an enterprise does not face direct competition. This is likely to be the case where services are supplied by local government (eg water and sewerage services). Comparing the **performance** and **processes** of local government service provision can promote yardstick competition, thereby creating incentives for managers to provide their services more efficiently and effectively. Benchmarking can also be a valuable tool for identifying ways to improve performance.

It is useful to divide benchmarking into two categories:-

- comparative performance information or **results benchmarking** (eg the annual publication, *Comparative Information on NSW Local Government Councils*).
- the analysis and improvement of processes within the organisation or **process benchmarking**.

Process benchmarking involves identifying an organisation's performance and practices in key areas and making comparisons with other organisations, in order to learn how to achieve better results. Process benchmarking often involves comparing with best practice performers. The benefits of process benchmarking are gained by comparing the practices of internal operations with the operations of others, and applying the results to improve practice.

Council Response:

Performance benchmarking requires accurate data in terms of both costs, specifications and service levels. Grafton City Council recently implemented activity based costing which will vastly improve the data requirements for performance benchmarking. However, there are many variables to overcome when comparing one service with another (ie treatment costs of water are dependent on water quality at the source). For these reasons, Grafton City Council does not favour this type of benchmarking in the short term, mainly due to the time needed to gather and develop the data/specifications and service levels. For the same reason, the current "Comparative Information on NSW Local Government Councils" publication has limited usefulness.

Process benchmarking requires documentation of procedures to a defined output. This is relatively simple and less time consuming than an accurate comparable performance benchmark exercise. Grafton City Council has already begun process benchmarking in the activities of Road signage, RTA roadwork activities, Budgeting, Creditors, Rates - Debt Recovery, Investments, Payroll and Water and Sewerage activities. On completion of these process benchmarks Grafton City Council will be in a position to gauge its efficiency in these areas. Over time it is planned to process benchmark as many activities as possible.

Competitive Tendering

Introduction

Throughout the State, councils are already considering and using a wide range of tools to achieve the best possible value for the community. These include:-

- workplace reform
- benchmarking
- quality management systems
- reliable costing systems

Each of these techniques may offer significant benefits to councils, depending on the circumstances. They are all part of a broader and more fundamental drive to make all levels of government as efficient as possible.

Competitive tendering is another technique among these which may be employed by council where appropriate. Often, competitive tendering will be partnered with, or follow on from, these other techniques. Evidence shows that competitive tendering may achieve the greatest benefit only when part of a wider program of service delivery reform.

Definitions:-

'competitive tendering' is the calling of tenders by council where council's in-house service unit submit a bid as well as external contractors. Council then makes its decision based on the tender bids about who will provide the service.

'contracting out' is the contracting for a service by a council with an external body. This may or may not be the result of competitive tendering. That is, a council may contract out as a result of a separate decision to provide a service this way (such as where an internal supplier does not exist). Contracting out may be used for all or part of a service funded by council.

Advantages

- Competitive tendering relies on competition to achieve greater efficiency and better quality service provision. It is not based upon a judgement that the private sector is more efficient than the public sector. Rather, it takes advantage of the competitive marketplace in an attempt to obtain the best value for the community.
- Competitive tendering requires councils to look closely at the level of service desired, the specifications, and the level of quality. This can assist in driving improvements to in-house providers. Councils can test the effectiveness of their providers with others to make an informed decision about the best way to provide a service
- Studies point to competition more than any other single factor as crucial for the achievement of best value for money. Without competition, organisations, be they private or public sector entities, may not operate to full capacity.

Disadvantages

- The Industry Commission into competitive tendering accepted that competitive tendering in the public sector results in job losses within an organisation. This is true even if an in-house bid is successful. A successful private sector contractor may absorb a number of staff, but generally, evidence suggests that not all staff are redeployed in this way.
- Competitive tendering may also have an effect on the employment conditions of workers. This raises important concerns about lack of job security, reduced wages and conditions and other social impacts associated with competitive tendering.
- Once a service is contracted out, council will lose the technical expertise, infrastructure and plant needed to carry out the service itself.
- Costs associated with resourcing in-house services so to enable competitive bids to tendered services.
- Commercial considerations can lead to short cuts and reduced quality from contract operators. The minimum specification is often met with no margin for improvement.

Probity

Like any other function of council, competitive tendering processes must be able to stand up to independent scrutiny. Tendering processes under the Local Government Act are the minimum that council needs to consider. A council's design of a contract, the calling of tenders, assessment, decision-making and monitoring must be fair and impartial, and must be seen to be impartial by the community and tenderers alike.

These issues are especially important where in-house provider is lodging a bid. In these cases, council has an inherent conflict of interest as both the 'owner' of a competing provider and as the purchaser of a service. Separation of the 'provider' function from the 'purchaser' function is essential from a probity perspective.

Service Quality

Maintaining a given quality of service at a given price is a core issue for councils involved in competitive tendering. The aim is not simply to achieve the largest cost reduction, but rather to achieve high quality service delivery and good value for money. This aspect can often be lost in the discussion of competitive tendering.

Council will need to develop clear standards of quality before it enters the substantive competitive tendering process. It will need to look at the results of benchmarking, performance indicators and other quality management systems to develop standards of quality.

Council Response:

Council will not instigate competitive tendering because:

- **Council has the objective to retain the knowledge and experience of its workforce, and improve its competitiveness through work design, work and service specification, quality improvement, skill expansion and training, and technology expansion.**
- **Council believes the fundamental principle of NCP is to identify and promote the best quality, value or 'added-value' council services, products or facilities to the community**
- **Council recognises the cost and impact to the workforce and the community of :**
 - **walking away from its current investment in staff and equipment**
 - **awarding additional work to contractors that directly causes a nett reduction in local employment**
 - **additional costs of contract specification and administration, tax administration, and quality compliance**
 - **cost of governance that will remain, regardless of the commissioning of services by council staff or contract**

Council already 'contracts - out' the services of :-

Waste & Recycling

Aquatic Centres

Sports Stadium

2 Cemeteries

Construction in :-

Kerb & Gutter, Footpaths, Road Sealing and Roundabouts

Some Construction in :-

Sewer Mains, Water Mains, Drainage Mains, Roads and major augmentation of infrastructure.

As an alternative, Council will benchmark the method of its service delivery and works, against internal and industry standards in order to ensure effective operations.

