

Procurement

Version:

Date Adopted:

9 August 2022

5

Next Review Due:

August 2026

1. STATEMENT

This Policy has been developed pursuant to the requirements of Section 49 of the *Local Government Act* 1999. The aim of this policy is to encourage best practice in procurement and to provide clear direction, consistency and control over procurement activities.

2. **DEFINITIONS**

Direct Purchasing - Where the purchase value warrants the involvement of only one supplier.

Expression of Interest (EOI) - Expression of Interest is generally the initial phase of a staged approach, which allows market responses to be assessed to identify potential contractors interested in a project, for invitation into a secondary stage.

Open Tender - Seeking tenders from the marketplace via an open invitation process such as an advertisement.

Panel Contract - Multiple contractors have been awarded agreements for providing the same defined scope of works or services. These agreements, whilst contractual, have no guarantee of work and are usually engaged on an individual project basis by issuing a purchase order or letter of engagement referencing the head contractual agreements.

Prequalified Contractor - Contractors have provided details which are formally assessed against pre-defined criteria. These criteria usually include capability/experience, Work Health & Safety (WHS), quality and environmental certification, financial sustainability, work methods, insurances and licences.

Probity - Refers to uprightness, honesty, proper and ethical conduct and proprietary in dealings. Within government, the word "probity" is often used in a general sense to mean "good process." A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.

Procurement - Is the entire process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a contract.

Quotation - Seeking a price and scope of goods, works or services from a supplier to enable comparison.

Selected Tender - Seeking tenders from a limited number of suppliers based on criteria such as location, previous performance, or the result of an expression of interest (EOI) process.

Strategic Alliance - Seeking tenders / contracts as part of a purchasing group e.g. combined purchasing arrangements with other Councils and / or spheres of government.

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Value for Money - Best outcome achievable when all costs and benefits, both qualitative and quantitative, over the procurement lifecycle (including but not limited to acquisition, use, maintenance and disposal) are considered.

3. PRINCIPLES

Council's procurement is underpinned by the following key principles:

3.1 Council Delivers Value for Money Services to the Community

To ensure the best overall value and result is obtained. Applying both a strategic and cost-effective approach which may include negotiations and clarifications of the purchase. Other factors considered may include fitness for purpose, whole of life cost, timeliness, flexibility to adapt, quality, sustainability, intangible costs/benefits, service, support and warrant.

3.2 Compliance with Statutory Obligations

To ensure purchasing activities are conducted in accordance with legislative and common law responsibilities. These include but are not limited to the *Local Government Act* 1999, *Competition and Consumer Act* 2010, WHS Act & Regulations 2012 SA, National Competition Policy and other relevant legislation, industrial awards and agreements.

3.3 Open and Fair Competition

To ensure open and fair competition is fostered and maintained by providing suppliers and contractors with appropriate access to Council's procurement opportunities.

3.4 Professional Integrity and Ethical Conduct

Officers engaged in purchasing should, at all times, undertake their duties in a professional, ethical, honest and impartial manner. This Conduct aligns with Councils Corporate Standards and Professional Code of Conduct. If a Conflict of Interest arises this should be addressed in Appendix A.

3.5 Risk Management

To ensure that appropriate risk management practices and procedures are in place for purchasing activities including risk identification, assessment and implementation of controls, in line with the Risk Management Policy.

3.6 Accountability, Transparency and Probity

To ensure that responsibilities are clearly defined and that decisions are made in an open and transparent manner. This will include appropriate records management of all corporate information.

3.7 Environmental Sustainability

To promote and adopt purchasing practices which conserve resources, save energy, minimise waste, protect the environment, and are generally consistent with principles of ecological sustainability where practicable.

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3.8 Local/Regional Sourcing and Local Employment and Training

Council will give preference to local/regional business when all other commercial considerations are equal (e.g. capability, capacity and competitiveness). Within the evaluation phase, Council will assess the economic benefit assessment of a proposal/tender.

Council has a commitment to maximising the skills, development and employment opportunities available in the Wattle Range area. Consideration may be given, where practicable and appropriate, to incorporate strategies in the procurement process that support local employment, which may include contractors engaging apprentices, trainees and cadets in their work practices.

3.9 Consistent with Strategic Management Plans

To ensure purchasing activities are consistent with Council's Strategic Management Plans (i.e. Strategic Plan, Infrastructure Asset Management Plans and Long Term Financial Plan, Annual Business Plan & Budget).

3.10 Social Sustainability

Consideration may be given, where it is practicable, to investigating the inclusion of not-forprofit organisations (social enterprises) that benefit the community (engaging the disadvantaged).

4. SCOPE

4.1 Within Scope

This policy covers the required conduct for procurement activities associated with the acquisition of goods, works or services of any value by the Council. This includes tendering arrangements and the contracting of services and applies to all Council staff and authorised third parties conducting work on behalf of Council.

It is the responsibility of personnel engaged in any procurement process and activities on behalf of the Council to comply with the Procurement Policy. This responsibility extends to anyone identifying the goods, works or services to be acquired, undertaking or participating in procurement activities, or staff receiving or accepting goods on Council's behalf.

4.2 Outside of Scope

This policy does not cover:

- Non-procurement expenditure such as refunds, reimbursements, sponsorship, subscriptions, grants, funding arrangements, fees, licences, registrations, retainers, donations and employment contracts; or
- Real estate acquisitions, disposals and leases.

However, Council's normal budgetary process will consider these and determine authorisation as part of this process.

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4.3 Exemptions from this Policy

The authority to provide an exemption from using the required method of procurement will be delegated to the Chief Executive Officer or the relevant Department Director in accordance with expenditure sub-delegations as prescribed in Council's Delegations Register. An appropriately completed exemption form must detail the reasons why the exemption was necessary.

There may be emergencies, or procurements in which a tender process will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

4.4 Prudential Management

Where a project or commercial activity is required to be managed in accordance with prudential management legislation, Council will adhere to provisions within its Prudential Management Policy.

4.5 Work, Health & Safety (WHS)

Where appropriate Council will engage suppliers and / or contractors as pre-qualified contractors who are able to maintain a level of WHS that is acceptable in accordance with Council's WHS Policies and Procedures and any additional requirements specified in terms and conditions of contractual arrangements.

4.5.1 Pre-Purchase Risk Assessment

Formal pre-purchase risk assessments must be undertaken for purchase of all chemicals and plant / vehicles in accordance with Council's WHS Plant Procedure. Consideration of risk must be undertaken before making any other purchases. The level of the pre-purchase risk assessment shall be determined by the value of the purchase, type of purchase and perceived level of risk.

4.5.2 WHS Contractor Management

Council has an obligation to ensure that contractors engaged by Council have an understanding and a commitment to WHS as competent providers of the goods or services. Council officers must ensure they administer Council's Contractor Management Policy and Procedure when engaging contractors, including components regarding selection, monitoring and induction.

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5 PROCUREMENT METHODS

Council purchases goods, works and services using various types of agreements or contracts. Prior to adopting one of the following methods of procurement, consideration should also be given to utilising any other existing contracts available to Council.

Generally, open and fair competition is best achieved by undertaking a tender process so that all interested parties have an opportunity to bid. However, there may be procurements in which a tender process will not necessarily deliver the most advantageous outcome for the Council. In such instances, other market approaches may be more appropriate.

The Council may, having regard to its procurement principles and any other factors considered relevant in its absolute discretion, determine to utilise one or more of the following procurement methods:

5.1 Direct Purchasing

This is where Council purchases from a single source, without first obtaining competing bids. This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with Council.

Payment options available to the Council for direct purchasing include credit cards, employee purchase reimbursement, store credit (purchase order) payment via cheques or Electronic Funds Transfer (EFT).

5.2 Purchase Orders

Purchase Orders should be utilised prior to work, service or goods being received.

Purchase Orders serve three main purposes:

- ensuring expenditure is approved by an Officer with the correct financial delegation;
- demonstrating a financial commitment in Council's finance system to allow accurate tracking of Council's financial obligations at any point in time; and
- establishing a set of terms and conditions for purchase of goods, works, or services.

Purchase orders have limited terms and conditions and should not be used for non-routine, high value or high-risk goods and services.

5.3 Low Value Quotations

This is where Council obtains quotations from prospective suppliers. A minimum of two written quotations will be sought and applicable for purchase values between \$5,001 (excluding GST) and \$24,999 (excluding GST).

If a written quote cannot be obtained, Council will keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote. This method is suitable for low value, low risk goods and services.

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5.4 Request for Quotations (RFQ)

This is where Council obtains written quotations from prospective suppliers. A minimum of three written quotations are sought and applicable for purchase values between \$25,000 (GST ex) and \$80,000 (GST ex). This method is best suited for simple low-risk large price-based purchases.

A "Short Form Request for Quotation" can be used for purchases with minimal specifications. These details are available on the LGA Procurement website.

A "Long Form Request for Quotation" can be used for purchases with detailed specifications. These details are available on the LGA Procurement website.

Where quotations have been sought from three suppliers and some suppliers fail to either respond or not meet the timelines for response, then appropriate documentation will be maintained to acknowledge this and an exemption sought to proceed or re-tender.

5.5 Requests for Expression of Interest (REOI)

This is where Council issues an open invitation for proposed goods, service provision or works and is applicable for purchases between \$25,000 (excluding GST) and above.

An REOI is generally the initial phase of a staged approach where there is potentially a large market for the proposed goods, service provision or works and where the Council would like to be able to short list suppliers and invite them to participate in a tender process. A secondary approach generally follows, seeking more detailed information including formal pricing.

5.6 Requests for Tenders (RFT)

This is where the Council issues a tender for a proposed goods, service provision or works and is applicable for purchases above \$80,000 (excluding GST).

Council may issue a "Select" request for tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers. This may be where there is a limited market capability for example intellectual property restrictions or proprietary licencing. Reasonable grounds can be where one or more of the procurement principles listed in section 3 of this Policy are utilised.

Otherwise, Council may issue an "Open" Request for Tender.

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5.7 Panel Contracts

This is where the Council establishes panel arrangements with a select group of suppliers. Generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

- A standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
- The prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

This method is used to improve the efficiency of the procurement process and reduce the impact of repetitive bidding both on internal resources and on potential suppliers.

Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.

5.8 Collaborative Purchasing Contracts - Strategic Alliances

This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations. Arrangements in many panels have included undertaking an open market approach which satisfy the requirements of this Policy including:

- Local Government Association Procurement (LGAP);
- Limestone Coast Local Government Association (LCLGA);
- Procurement Australia;
- State & or Federal Government contracts.

6 PROCUREMENT METHOD CONSIDERATIONS

The appropriate method of procurement will be determined by reference to a number of factors, including:

6.1 Value of the Purchase

The value of the purchase will be calculated as follows:

- Single one-off purchase the total amount, or estimated amount, of the purchase (excluding GST);
- Multiple purchases the gross value, or the estimated gross value, of the purchases (excluding GST); or
- Ongoing purchases over a period of time the contract value, or the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).

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|--|---------------------------------------|-----------------|-----------------|---------------------------|--|---|--|-----------------------------------|--------------------|------------------------|
| Value of Purchase (excluding GST) | POSSIBLE METHOD OF PROCUREMENT | | | | | | | | | |
| | Employee Purchase Reimbursement | Store Credit | Credit Card* | Low value Purchases | Quotations – At least 2 written quotations | Request for quotation (RFQ) At least 3 | Request for Expression of Interest (REOI) | Request for Tender (RFT) | Panel Contracts | Strategic Alliances |
| | Direct Purchasing | | | written | | | | | | |
| Up to \$500 one off | | | | | | | | | | |
| purchase | | | | | | | | | | |
| \$1 - \$1,000 | | | | | | | | | | |
| one off | | | | | | | | | | |
| purchase | | | | | | | | | | |
| \$1 - \$5,000 | | | | | | | | | | |
| one off | | | | | | | | | | |
| purchase | | | | | | | | | | |
| \$5,001 - \$24,999 | | | | | | | | | | |
| \$25,000 - | | | | | | | | | | |
| \$79,999 | | | | | | | | | | |
| \$80,000 - | | | | | | | | | | |
| \$150,000 | | | | | | | | | | |
| \$150,000 | | | | | | | | | | |
| plus | | | | | | | | | | |
| (Council) | | | | | | | | | | |

^{*}Expenditure as per financial delegations listed in Appendix B. The colour categories outline a difference in the possible method of procurement.

- 6.2 Cost of an open market approach versus the value of the acquisition and the potential benefits
- 6.3 Particular circumstances of the procurement activity
- 6.4 Specific procurement objectives
- 6.5 Market size and the number of competent suppliers
- 6.6 Council's leverage in the marketplace
- 6.7 Time constraints

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^{**}Purchases over \$150,000 require Council Approval.



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7 RISK MANAGEMENT / CONFLICT OF INTEREST

A global assessment of the risks associated with the relevant activity and /or project, including the risk profile of the procurement and any risks associated with the preferred procurement method are considered in the Councils risk management framework.

To reduce intended or unintended procurement risk, officers are required to use the conflict of interest declaration form listed in Appendix A when evaluating the tender requests form for quotation processes.

8 FINANCIAL DELEGATIONS

The Council has delegated to the Chief Executive Officer the power in Section 137 of the Act to expend funds of the Council.

The Chief Executive Officer has sub-delegated to Directors, Managers, Team Leaders and other appropriate staff the power in Section 137 of the Act to expend the funds of the Council.

All such delegations and sub-delegations are subject to limitations set out in the instruments of delegation and sub-delegation.

9 OMBUDSMAN ACT

Tenderers should be aware that the *Ombudsman Act 1972 (SA)* has been amended so that the definition of 'administrative act' under that Act includes an act done in the performance of functions under a contract for services with Council¹. The *Ombudsman Act 1972 (SA)* also provides the Ombudsman power to investigate matters that are in the public interest. Therefore, Tenders should ensure that they are compliant under the *Ombudsman Act 1972 (SA)*.

10 REVIEW

This Policy shall be reviewed by the Council, in consultation with the relevant stakeholders, every four years or earlier if legislation or related Policies and Procedures change.

11 AVAILABILITY

This Policy is available at Councils Website: www.wattlerange.sa.gov.au.

A copy of the Policy may be purchased from the Principal Council Office upon payment of a prescribed fee in accordance with Council's Schedule of Fees and Charges.

¹ Section 3 Ombudsman Act 1972 (SA).

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12 REFERENCES & FURTHER READING

| References | | |
|--|---|--|
| Relevant Legislation: | Local Government Act 1999 (s49) Independent Commission Against Corruption Act 2012 Public Interest Disclosure Act 2018 Ombudsman Act 1972 (SA) | Trade Practices Act 1974 WHS Act & Regulations 2012 SA |
| Relevant Policies / Procedures / Guidelines | Wattle Range Council Delegations Register Policy 1-8 Fraud and Corruption Prevention Policy 4.5 Contractor Management & Procedure 4.5.1 Contractor Management | Policy 1-29 Contracts and Tenders Sale of Assets Policy 1-34 Prudential Management Policy 4.5 Work Health and Safety Contractor Management WHS Plant Procedure Prequalified Contractor Register Skytrust |

13 ADOPTION & AMENDMENT HISTORY

The table below sets out the adoption, review and amendment history of the policy.

| Version No: | Issue Date: | Authorised by: | Description of Change: | Minutes Reference: |
|----------------|-------------|----------------|--|----------------------------|
| 1 | 11/10/2005 | Council | Adoption | Folio 3408; Item 13.1.3 |
| 2 | 11/12/2007 | Council | Reviewed and amended | Folio 3951; Item 10.5 |
| 3 | 14/12/2010 | Council | Reviewed | Folio 4496; Item 16.1.7 |
| 4 | 15/01/2013 | Council | Reviewed and amended | Folio 4860-1; Item 10.1 |
| 5 | 28/11/2017 | Council | Major Review. Name change from Contracts & Tenders to Procurement Policy | Folio 7497; Item 13.2.4 |
| 6 | 09/08/2022 | Council | Review of Policy | Folio 10334; Item 15.25 |

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Appendix A

Conflict Of Interest Form

CONFLICT OF INTEREST DECLARATION

Insert client name / Wattle Range Council

All Council and xxxx staff or contractors or consultants engaged by the Council, or are involved in the Council or it's operations must declare any direct or indirect personal relationships, affirmations or associations that they have which may give rise to any actual or perceived Conflict of Interest in relation to their work with the Council.

A soft copy of the signed declaration is to be confidentially stored in Council's document management system.

| Name: | |
|---------------|---|
| Email: | |
| Telephone: | |
| Location: | |
| Current role: | |
| Project: | Eg RFX 19033 Provision of External Audit Services |

Declaration

I hereby declare a Conflict of Interest.

Conflict of Interest Details

(Provide a brief outline of the nature of the conflict, including whether it is actual, potential or perceived. Sufficient detail must be provided to enable the Council to make an informed decision about the identification of and management of the conflict) (Endorse 'none known' if appropriate)

Management Plan

I agree to:

- update this disclosure throughout the period of my engagement with Council on an annual basis or until the conflict ceases to exist;
- co-operate in the formulation and execution of a Conflict of Interest Management Plan;

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• comply with any conditions or registrations imposed by LGAP to manage, mitigate or eliminate any actual potential or perceived Conflict of Interest.

| Signature_ | | |
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| | | |
| Date | | |

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EXPLANATORY NOTES FOR THE CONFLICT OF INTEREST DECLARATION

These explanatory notes outline the Conflict of Interest obligations that apply to individuals engaged by Wattle Range Council including if a Council representative is acting as an Agent for an entity.

As a member services organisation, Council is required to maintain a high standard of professionalism and ethical conduct in its operations. It is essential that public confidence is maintained in Council's business operations. All aspects of Council's procurement activities must be, and be seen to be, operating fairly, efficiently, effectively and impartially.

All persons engaged by Council to assist with its operations must:

- act with integrity, objectivity, openness and honesty;
- be accountable and transparent in the conduct of their duties;
- provide assurances to Council that they will abide by Council 's confidentiality requirements; and
- disclose to Council any Conflicts of Interest related to their official duties.

Confidentiality Obligations

All persons who are engaged by Council are obliged to preserve certain standards of confidentiality.

Certain aspects of procurement processes result in information being provided to Council that must be handled and treated as confidential information and only used for the purpose of Council business.

Particularly, if it is potentially unlawful for individuals to use for other purposes any intellectual property or sensitive commercial information contained in proposals put to Council.

Conflicts of Interest

Conflicts of Interest will arise from time to time. These explanatory notes are designed to ensure that all conflicts are identified, disclosed and managed in a rigorous and transparent way.

Defining Conflicts of Interest

Conflicts of Interest exist when it is likely that you could be influenced, or could be perceived to be influenced, by a personal interest in carrying out your public duty. A conflict of interest that leads to impartially in decision-making may constitute corrupt conduct.

Examples of issues that may give rise to a Conflict of Interest include:

- having a financial interest in a matter that Council deals with or being aware you have friends or relatives with such an interest;
- having personal beliefs or attitudes that influence the impartiality of your advice;
- having personal relationships with people that Council is dealing with or investigating that go beyond a normal professional working relationship;
- engaging in secondary employment that comprises your integrity and/or that of Council;
- participating in a recruitment process where there is a personal relationship with an applicant, for instance a spouse, family member or a close friend. This includes past or present relationships;
- being active in any political party or as a representative for a political party, cause or movement that may influence you in the course of your engagement with Council.

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Appendix B

Financial Delegations

| Position Title | Banking (Authority) | Credit Card (purchase Limits) | General Purchasing | General Purchasing Approvals | Tenders (within budget) |
|--|------------------------|-------------------------------------|-----------------------|------------------------------------|-------------------------------|
| Chief Executive Officer | Yes | \$5,000 | \$150, 000 | \$150, 000 | \$150, 000 |
| Director Corporate Services,/ Deputy CEO | Yes | \$4,500 | \$100,000 | \$100,000 | \$100 000 |
| Director Development Services | Yes | \$4,500 | \$75,000 | \$75,000 | \$75,000 |
| Director Engineering Services | Yes | \$5,000 | \$100,000 | \$100,000 | \$100 000 |
| Manager Operations | | | \$30,000 | \$30,000 | \$30,000 |
| Program Manager Procurement | | | \$30,000 | \$30,000 | \$30,000 |
| Manager Assets & Environment | | | \$30,000 | \$30,000 | \$30,000 |
| Manager Administration | Yes | | \$5,000 | \$5,000 | \$5,000 |
| Manager Development & Regulatory Services | | | \$5,000 | \$5,000 | \$5,000 |
| Manager Financial Services | Yes | | \$5,000 | \$5,000 | \$5,000 |
| Manager Libraries & Cultural Services | | | \$5,000 | \$5,000 | \$5,000 |
| Manager Community Development | | | \$5,000 | \$5,000 | \$5,000 |
| Director Child Care Services | | | \$2,000 | \$2,000 | \$2,000 |
| Human Resources & Risk Manager | Yes | | \$2,000 | \$2,000 | \$2,000 |
| Building Services Officer | | | \$2,000 | \$2,000 | \$2,000 |
| Technical Officer | | | \$2,000 | \$2,000 | \$2,000 |
| Environmental Services Officer | | | \$2,000 | \$2,000 | \$2,000 |
| Senior Asset Management Officer | | | \$2,000 | \$2,000 | \$2,000 |
| Senior Engineer | | | \$2,000 | \$2,000 | \$2,000 |
| Engineer | | | \$2,000 | \$2,000 | \$2,000 |
| Project Manager | | | \$2,000 | \$2,000 | \$2,000 |
| Team Leader Maintenance | | | \$2,000 | \$2,000 | \$2,000 |
| Construction Team Leader | | | \$2,000 | \$2,000 | \$2,000 |
| Team Leader Parks & Gardens | | | \$2,000 | \$2,000 | \$2,000 |
| Mechanical Team Leader | | | \$25,000 | \$25,000 | \$25,000 |
| Information Communication & Technology Coordinator | | | \$5,000 | \$5,000 | \$5,000 |
| Executive Assistant | | \$1,000 | \$1,000 | \$1,000 | \$1,000 |
| Tourism Events Coordinators | | | \$1,000 | \$1,000 | \$1,000 |

| | File Ref: | Ref: Classification: Department: Position Responsible: | | Position Responsible: | Review Frequency: | |
|--|-----------|--|--------------------|-----------------------------|-------------------|--|
| | 9.63.1/2 | Public | Corporate Services | Director Corporate Services | 4 Years | |
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