



Procurement Policy

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Responsible Officer: Manager Corporate Services

Verified by General Manager:

Verified by Mayor:

POLICY OBJECTIVES

This policy's objective is to establish guidelines to ensure Council's procurement procedures are in compliance with the legislative framework that is defined in the *NSW Local Government Act 1993* (Section 55) and Part 7 – Tendering of the *NSW Local Government (General) Regulation 2021*.

Objective: To provide management's overall control and oversight of the Council's procurement of goods and services for efficient operation.

This policy is to ensure that public funds are spent in a way that maximises value for the dollar spent and complies with the following principles:

- Efficiency and effectiveness
- Value for money, being the benefits achieved compared to whole of life costs
- Probity and equity
- Environmental protections
- Open and fair competition
- Maintaining a high standard of health & safety management

POLICY SCOPE

Anyone who engages in procurement activities, including council members, employees, and delegates, is subject to the provision of this policy.

The policy is applicable to all procurement actions undertaken by Council, including purchases, orders, quotes, tenders, contracts, and disposals. The acquisition, leasing, or sale of real estate is not covered by this policy.

POLICY

Council will give fair and equitable consideration in all its procurement activities and will use public funds to ensure the best return and performance is achieved through prudent evaluation. Council will in its evaluation, give preference to environmentally sensitive goods where price, performance, quality, suitability and other evaluation criteria are comparable, considering whole of life analysis.

When purchasing goods and services, Council Officers and Councillors will act impartially; maintain a high level of professionalism, confidentiality and accountability. The procurement must be in accordance with all relevant delegations.

The procurement of goods and services by Council must be in accordance with the legislative framework that is defined in the *NSW Local Government Act 1993* (Section 55), Part 7 – Tendering of the *NSW Local Government (General) Regulation 2021*.

Council's Code of Conduct, Statement of Business Ethics and Values will at all times be maintained in any procurement activity conducted by Council. To comply with the Act's requirements, the Council will not split contracts.

PROCUREMENT THRESHOLDS

The procurement thresholds (including GST) are dollar amounts that outline the right process for Council to follow and that Council staff must adhere to when performing any procurement.

The procurement thresholds detail for the procurement of goods or services are outlined below:

Purchase of Goods and Services above \$250,000.

Purchases in this category shall be administered in accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

Prior to proceeding on any form of procurement for this value, a budget and a job number must be allocated to the specific project. An official purchase order must be raised and submitted to the Service Provider.

Utilisation of the Office of Local Government Tendering Guidelines for NSW Local Government – 2009 is encouraged.

At the end of major procurements, the performance of the contractor or Service Provider should be assessed. This information can be used in the assessment process for the award of future contracts.

Purchase of Goods and Services above \$100,000 and up to \$250,000

Purchases must be made by submitting an official purchase order to the Service Provider. Purchases must be undertaken by the inviting of public quotations via the Tenderlink Portal. Where applicable, an advertisement should be displayed in the Western Herald.

An exemption from inviting public quotations via the Tenderlink Portal/local advertising for quotations, may only be issued by the General Manager.

Should such an exemption be issued, a minimum of three written quotations must still be obtained. If three quotes are not obtainable, the General Manager must again sign the exemption.

Examples of reasons as to why public quotations/three quotes are not proposed to be obtained are where Council has resolved so, a genuine emergency exists, there is not any viable alternative products or service providers or due to warranties and/or manufacturer requirements, Government Pricing or a Government Supplier is being accessed or where LG Procurement or Regional Procurement are being utilised to source suppliers. Sufficient evidence must be provided with the application to the General Manager as to why public quotations/three quotes cannot be obtained. Any exemption must be obtained in writing.

All persons and organisations that provide a quotation must be advised in writing of the outcome.

An instrument of engagement must be used when procuring goods and/or services with this threshold, for example a formal Contract or Instrument of Agreement. The terms and conditions relevant to this procurement must be made evident during the quoting process (attached to the Request for Quote)

The instrument of engagement must include any proposed retention, bank guarantee requirements, payment milestones or any other conditions. The instrument of engagement

must be agreed upon with the successful applicant (and signed) prior to the issuance of purchase order.

At the end of major procurements, the performance of the contractor or Service Provider should be assessed. This information can be used in the assessment process for the award of future contracts.

Purchase of Goods and Services above \$50,000 and up to \$100,000

Purchases are to be made by submitting an official purchase order to the Service Provider. Exceptions to placing a purchase order will be made for various services involving recurrent payments, such as telephone and electricity accounts, subscriptions, credit card purchases and monthly rentals, where it is impractical to raise orders prior to receipt of the invoice.

Except for exceptional circumstances, three (3) written quotations are to be sought prior to the purchase. Alternatively, quotations may be sourced via the Tenderlink Portal, at the discretion of the Departmental Manager.

Exceptions to the sourcing of three (3) written quotes can be authorised by the Departmental Manager for their Staff, or in the case of where the Departmental Manager is undertaking the procurement, any exemption is to be provided by the General Manager. Consideration of local suppliers is encouraged.

Examples of reasons as to why three (3) quotes are not proposed to be obtained are where Council has resolved so, a genuine emergency exists, there is not any viable alternative products or service providers or due to warranties and/or manufacturer requirements, Government Pricing or a Government Supplier is being accessed or where LG Procurement or Regional Procurement are being utilised to source suppliers. Sufficient evidence must be provided with the application as to why three (3) quotes cannot be obtained. Any exemption must be obtained in writing.

Purchase of Goods and Services above \$5,000 and up to \$50,000

Purchases are to be made by submitting an official purchase order to the Service Provider. Exceptions to placing a purchase order will be made for various services involving recurrent payments, such as telephone and electricity accounts, subscriptions, credit card purchases and monthly rentals, where it is impractical to raise orders prior to receipt of the invoice.

Except for exceptional circumstances, two (2) verbal quotations are to be sought prior to the purchase. Exceptions to the provision of two (2) verbal quotations can be authorised by the Departmental Manager for their Staff, or in the case of where the Departmental Manager is undertaking the procurement, any exemption is to be provided by the General Manager. Consideration of local suppliers is encouraged.

Purchase of Goods and Services up to \$5,000

Purchases may be made via the use of an official purchase order, corporate credit card or out of petty cash, except as defined otherwise by the General Manager. Petty cash limits are defined in the Petty Cash Procedure. There is no requirement for quotations to be sought prior to the purchase.

In summary the thresholds and the corresponding requirements follow:

Threshold	Requirements for quotations	Exemptions
Purchase of Goods and Services up to \$5,000.	No requirement for quotations.	N/A
Purchase of Goods and Services above \$5,000 and up to \$50,000.	Two (2) verbal quotations	Yes
Purchase of Goods and Services above \$50,000 and up to \$100,000.	Three (3) written quotations	Yes
Purchase of Goods and Services above \$100,000 and up to \$250,000.	Public quotations via the Tenderlink Portal, OR, a minimum of three written quotations must be obtained	Yes
Purchase of Goods and Services above \$250,000.	As per <i>Local Government Act 1993</i> .	As per <i>Local Government Act 1993</i> .

Credit Cards

The General Manager will determine and approve those staff who have an entitlement to a Council Corporate Credit Cards.

In utilizing these cards, no personal expenses are permitted. Any purchases carried out using the card must be accompanied by a tax invoice/receipt, a signed credit card use form with the correct job number to allocate the costs correctly.

All credit card purchases must follow this policy and be approved by the General Manager. The General Manager's credit card purchases must be authorised by the Mayor, and vice versa.

Fuel Cards

Fuel Cards are provided by the Council for usage by staff who have responsibility for Council vehicles. Such fuel cards may only be used to buy fuel for the designated Council's vehicles, and any receipts/tax invoice for such purchases must be submitted to the Council's Finance Team along with the purchasing officer's subsequent time sheet.

LOCAL TENDER/QUOTATION ADVANTAGE

A Local Purchasing Preference will be given to those providers who meet the requirements as to local tender status utilising the following weighting:

Purchase Amount	Local Purchasing Allowance
<\$5,000	10%
\$5,000 - \$30,000	5%
> \$30,000	Nil

PURCHASE ORDERS

A Purchase Order is Council's official document signed by an Authorised Purchasing Officer, used to purchase goods or services from an external supplier. A purchase order confirms the contractual relationship between Council and the supplier and must be issued before the procurement of the goods or service.

DEFINITIONS

Authorised Purchasing Officer: Person with delegated powers by Council or the General Manager to approve the issue of an order.

Gross Value: The total estimated cost of the purchase excluding any trade in value or goods which forms part of the purchase or disposal cost and including any Goods and Services Tax and cartage.

Local Preference: Within the constraints of this policy local suppliers may be given preference through fair and equitable evaluation where it is apparent that the procurement will directly or indirectly generate employment within Bourke Shire.

Procurement: is the acquisition of goods and/or services at the best possible cost, in the right quantity and quality, at the right time, in the right place for the direct benefit or use of Council - generally via a contract. Simple procurement may involve nothing more than repeat purchasing.

Tender: means a tender submitted or proposed to be submitted to Council in accordance with Part 7 – Tendering of the *NSW Local Government (General) Regulation 2021*.

RELATED LEGISLATIVE OBLIGATIONS

- *Local Government Act 1993*
 - Section 55 and 55A with the calling for tenders.
 - Section 7(e) and 8(1) with regard to principles of ecologically sustainable development.
- *Local Government (General) Regulations 2021*
 - Part 7 Tendering.
 - Part 9 Divisions 5 (211) deals with the authorisation of expenditure.
- *Environmental Planning and Assessment Act 1979*
- *Work Health and Safety Act 2011*

Office of Local Government Tendering Guidelines for NSW Local Government 2009

RELATED POLICIES / DOCUMENTS

- Council Procurement Procedures
- Bourke Shire Council Tendering Guidelines
- Disposal of Asset Policy
- Sale of Plant
- Purchase of Plant Procedures
- Council Statement of Business Ethics
- Risk Management Policy
- WHS Risk Management Procedure
- Council Code of Conduct Policy
- Council Statement of Business Ethics
- Council Fraud Control Policy

REVIEW AND VARIATIONS

This Procurement Policy will be reviewed every 2 years or Council retains the right to review, vary or revoke this policy at any time as required to ensure compliance with changing legislations, regulations, and best practices.

The General Manager has the right to review or vary any related procedures.

Presented to MANEX: 14/06/2023

Policy Adopted by Council: 26/06/2023



PROCUREMENT PROCEDURES

To assist better practice in the expenditure of public funds for public purposes, staff are to ensure that their purchasing activities are guided by the following considerations:

- **Legal obligations** – these include the provisions of the *Local Government Act 1993*, and the *Local Government (General) Regulation 2021*.
- **Policy frameworks and guideline documents** – these include the Tendering Guidelines for NSW Local Government, October 2009, and NSW Government Procurement Policy Framework.
- **Value for money** – value for public money to achieve positive outcomes for the community is the core principle underpinning procurement at all levels of government. It specifically involves a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle.
- **Probity** – Council must conduct all tendering, procurement and business relationships with honesty, fairness and probity at all times
- **Accountability and transparency** – Council must ensure that the process for awarding contracts is open, clear, fully documented and defensible.
- **Consistency** – This means that all conditions of tendering must be the same for each tenderer on any particular tender and the evaluation of tenders must be based on the conditions of tendering and selection criteria as defined in the tender documents.
- **No conflict of interests** – A Councillor or Council employee with an actual or perceived conflict of interest must address that interest without delay in accordance with Council's Code of Conduct.
- **No improper advantage** – Council must not engage in any practices that aim to give a potential tenderer an advantage over others, nor engage in any form of collusive practice.
- **Risk Management** – the identification and management of risks should be built into Council's procurement processes.
- **Open to scrutiny** – processes need to be based on clearly articulated and defensible evaluation criteria consistent with the legislative and policy framework. Actions must be robust and defensible to the public.

DEFINITIONS

Appropriate person: in relation to a tender submitted to Council, means a person designated by the General Manager to receive or deal with tenders submitted to Council and, if a person is not designated, means the General Manager.

Data storage device: has the same meaning as it has in the *Electronic Transactions Act 2000*

Electronic means: includes electronic communication within the meaning of the *Electronic Transactions Act 2000*

Formal tender document: means a standard form document issued by a council for completion by tenderers in connection with the submission of tenders to Council.

Goods: includes materials.

Instalment contract: means a contract requiring the payment of instalments by or to Council over a period of 2 or more years.

Public authority: includes Council.

Tender: means a tender submitted or proposed to be submitted to Council in accordance with the Part 7 – Tendering of the *NSW Local Government (General) Regulation 2021*.

The Act: means the *Local Government Act 1993*.

Quote: To state a price for securities, goods or services.

Register: Council will maintain a register of all contracts, tenders and quotations.

Risk Management: Contracts and procurement practices will be assessed for corruption risks and will include:

- informing potential contractors about Council's Values and Business Ethics
- assessing the purchasing procedures for expenditure under the tender threshold
- ensuring accurate documentation of formal procurement procedures for expenditure under the tender threshold
- assessing the approaches to tendering for contracts equal to and above the tender threshold
- avoiding competitive selection processes through relying on the extenuating circumstances provision in Section 55(3) of the Act
- evaluating quotations and tenders
- reviewing standard contract conditions
- ensuring audit and risk assessment mechanisms are in place
- thorough contract administration
- carrying out site inspections of contracts
- evaluating contractor's performances

Plant Hire (Standing Offer)

A Standing Offer is for the supply of services over a period of time which may be taken up at any time during the period of offer (e.g., plant hire). Tenders for plant hire are to be called in accordance with the tendering regulations. Except as below, only those who tender are to be engaged for plant hire.

Where plant to meet council requirements (type, numbers etc.) is not available from those who tendered, quotations are to be called, in accordance with the procurement policy, and expenditure on any subsequent engagement is not to exceed \$250,000.

Where contractors, who have tendered change the item tendered, or procure new items they wish to have included in their contract the matter will be dealt with as a variation.

GOODS AND SERVICES TAX (GST)

Council will compare pricing of tenders or quotations on the basis of net cost to Council after input tax credits are claimed.

EVALUATION OF OFFERS

Council will accept the offer most advantageous to it. In deciding which offer is most advantageous, Council will have regard for the procurement principles and all offers will be evaluated on appropriate selection criteria. Typical selection criteria may include, but are not limited to price, suitability for purpose, delivery, stock holding, quality and past performance of the supplier.

LATE TENDERS AND QUOTATIONS

Late tenders and quotations should not be considered, unless Council is satisfied that the integrity and competitiveness of the tendering process will not be compromised. Clause 177(5) of the Regulation provides that a Council must consider a tender received within a reasonable period after the close of tenders where the tenderer can satisfy the Council that the tender documents and all necessary information were lodged at a recognised delivery agency in sufficient time to enable the documents to have been received before the deadline. Any decision to accept a later tender should be documented including the rationale for the decision.

TENDERLINK

Council's electronic process of inviting bids to supply goods and/or services involving documentation being provided to potential suppliers.

MODERN SLAVERY ACT

Council is committed to doing all that it can to prevent slavery and human trafficking in its corporate activities and to ensuring as far as is practicable that its supply chains are free from slavery and/or human trafficking.

DELEGATIONS

General Manager and Manager Corporate Services

Full delegation within Council's adopted budget within Council's Management Plan.

Managers – Roads, Works, Environmental Services and Economic Development

To authorise and sign official orders of Council for own area of works and services required, in accordance with the adopted annual Council budget, up to a maximum of \$10,000.

The General Manager's delegation of authority to the other officers of Council, including those temporarily relieving in for other positions, is detailed in the Delegation Register.