

SECTION No. 1 Service Management
PART No. 8 Finance



Procurement Policy

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Responsible Officer: Manager Corporate Services

Verified by General Manager:

Verified by Mayor:

Policy Objectives

The objective of this policy 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*.

The policy further provides management with overall control and oversight of the Council's procurement of goods and services function for the efficient operation of Council.

In addition, 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 and safety management

Council is to ensure funds are spent effectively and economically, taking into account price and non-price factors (such as after sales service, warranty, safety repair costs, availability of spare parts and environmental sustainability) to ensure competitive procurement of goods, works and services to maximise community benefit.

Council is to comply with the requirements of the *Modern Slavery Act 2018* (NSW) and the *Guidance on Reasonable Steps* issued by the Anti-Slavery Commissioner, including associated reporting, model tender clauses and model contract clauses.

Policy Scope

This policy applies to all Staff, Councillors, Consultants, Contractors, and anyone involved in Council's procurement activities at any level.

This policy applies to all Council's procurement activities as they relate to the acquisition and use of goods and services, including (but not limited to):

- Tendering
- Contractor payments
- Quotations
- Goods and services procured by third parties, such as contractors, acting as representatives of Council
- Expressions of Interest for goods and services

- Council Credit Cards
- Fuel cards
- Charging purchases to an account that Council may hold with a supplier
- Purchase orders
- Petty Cash

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 (in the case of considering tenders) will act impartially and maintain a high level of professionalism, confidentiality and accountability. The procurement must be in accordance with all relevant delegations.

Council will discontinue all dealings with suppliers it reasonably suspects of having engaged in unethical conduct.

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) and in 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 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*. Utilisation of the Office of Local Government Tendering Guidelines for NSW Local Government – 2009 is encouraged.

Purchases must be undertaken by the inviting of public tenders via the Tenderlink Portal along with an advertisement in the Western Herald newspaper with such tenders also advertised on Council's Facebook page and on Council's website.

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, along with the signing of the necessary contract between the parties, once the successful contractor has been determined.

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 tenders via the Tenderlink Portal along with an advertisement in the Western Herald newspaper with such tenders also advertised on Council's Facebook page and on Council's website.

An exemption from inviting public quotations via the Tenderlink Portal/Western Herald newspaper/Facebook page and Council website may only be issued by the General Manager.

Should such an exemption be issued, a minimum of three (3) written quotations must still be obtained. If three (3) quotes are not obtainable, the General Manager must again sign the exemption.

Examples of reasons as to why public quotations/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 to the General Manager as to why public quotations/three quotes cannot be obtained. Any exemption must be obtained in writing.

Consideration of local supplier preference (2.5%), as herewith, is required in determining the preferred supplier.

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. All purchases of goods require a purchase order.

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.

Consideration of local supplier preference (2.5%), as herewith, is required in determining the preferred supplier.

- **Purchase of Goods and Services above \$10,000 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. All purchases of goods require a purchase order.

Except for exceptional circumstances, three (3) written quotations are to be sought prior to the purchase. Exceptions to the provision of three (3) written quotations can be authorised by the Departmental Manager for their Staff, or in the case of where the Departmental Manager is undertaking the procurement, an exemption is to be provided by the General Manager.

Consideration of local supplier preference (5.0%), as herewith, is required in determining the preferred supplier.

- **Purchase of Goods and Services up to \$10,000**

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.

Consideration of local supplier preference (10%), as herewith, is required in determining the preferred supplier.

In summary the thresholds and the corresponding requirements follow:

Threshold	Requirements for quotations	Exemptions
Purchase of Goods and Services up to \$10,000.	No requirement for quotations.	N/A
Purchase of Goods and Services above \$10,000 and up to \$50,000.	Three (3) written 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 advertised via the Tenderlink Portal, in the Western Herald newspaper, on Councils Facebook page and Councils website OR, a minimum of three (3)	Yes

	written quotations must be obtained, following the approval of the General Manager.	
Purchase of Goods and Services above \$250,000.	As per <i>Local Government Act 1993</i> and advertised via the Tenderlink Portal, in the Western Herald newspaper, on Councils Facebook page and Councils website.	As per <i>Local Government Act 1993</i> .

Credit Cards

The General Manager will determine and approve those staff who have an operational requirement for the use of a Council Corporate Credit Card.

In utilising these cards, personal expenses are strictly prohibited. Following any purchases carried out using the card, a 'Credit Card Use Form,' inclusive of the job number to correctly allocate the costs and accompanied by the tax invoice/receipt for the purchase, must be completed and lodged with Councils Finance Team.

All credit card purchases must follow this policy.

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.

Types of Procurement

Procurement of all goods, materials, equipment, works and services by Council will occur by one of the following methods and are subject to financial limits and conditions.

Direct Purchase

Staff in the conduct of their day-to-day duties may on occasion need to purchase small items. It is not practical for Council to obtain a number of separate quotations for such purchases.

To facilitate the purchase of these items staff can utilise the petty cash system or make use of the accounts Council has established at various businesses in Bourke, subject to their own financial authorisations and delegations as issued separately by Council.

Staff may also utilise Council credit cards for purchases online or suppliers who will not provide account services. The use of Credit cards is to be in accordance with Council's policy.

The maximum value of goods to be purchased in this manner is \$50 using the petty cash system, or \$9,999 using the account based or credit card system on any one occasion.

Written Instruction for Written Quotation

Where the value of goods or services to be provided lies between \$10,000 and \$50,000, a written instruction will be issued to the supplier and three (3) written quotations will be sought.

Where the value of goods or services to be provided lies between \$50,000 and \$100,000 a written instruction will be issued to the supplier and three (3) written quotations will be sought.

Where the value of goods or services to be provided lies between \$100,000 and \$250,000 Public quotations are to be invited via the Tenderlink Portal, along with an advertisement in the Western Herald newspaper with such quotations also advertised on Councils Facebook page and Councils website, OR, a minimum of three (3) written quotations must be obtained, following the approval of the General Manager.

Expressions of Interest (EOI)

An Expression of Interest (EOI) is less specific and has a broad specification and description of the project outcomes. An EOI is pitched at attracting alternative submissions or specialists in an area of expertise.

An EOI may be called for a project of any value depending on the particular circumstances and will generally be followed by a subsequent process of negotiation or request for tender depending on the value of the work. EOI's will be invited via the Tenderlink Portal, along with an advertisement in the Western Herald newspaper, on Councils Facebook page and on Councils website.

Annual Schedule of Rates

Council has a need to procure services for various activities in the conduct of its business where it is not easy or practical to accurately

estimate the actual quantity of work that will be required e.g. plant hire. These activities are governed by a schedule of rates contract. Council or its agent (eg Local Government Procurement or Regional Procurement) will call open tenders for those activities managed under a schedule of rates contract where the total annual expenditure on those activities is expected to exceed \$50,000 with a panel of providers established to supply the required goods or services for an identified period.

Request for Tender (RFT)

A Request for Tender (RFT) will be used when the value of works is expected to be in excess of \$250,000, or alternatively, where there is doubt as to whether the value of the work will exceed \$250,000.

Tendering may also be used in other circumstances for works of a lesser value where Council determines that it would be an effective method of procurement. Tenders are to be invited via the Tenderlink Portal, along with an advertisement in the Western Herald newspaper, on Councils Facebook page and on Councils website.

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
<\$10,000	10%
\$10,000 - \$50,000	5%
\$50,000 - \$250,000	2.5%

Local Supplier Preference

Council is committed to providing best value services to the community. Best value does not always mean lowest price as there are many other factors to be considered in selecting a provider of goods and services.

These factors include items such as relevant experience, financial resources, local knowledge, impact on local economy and legislative responsibilities. These factors are all assessment criteria that may be used in the evaluation of quotations and tenders for goods and services to Council.

In order to assist local industry to do business with the Council, Council will, as far as reasonably practical and permitted by law:

- Ensure a 'Buy Local' Culture within the Shire

- Advertise all tenders, quotations > \$100,000 and expressions of interest on its Tenderlink Portal, in the Western Herald newspaper, on Councils Facebook Page and on Councils website.
- Make all tenders, contracts >\$100,000 and expressions of interest available to access and download through both the Councils Tenderlink Portal and website.
- Ensure that buying practices, procedures and specifications do not disadvantage local suppliers and encourage transparency in quotation, tendering and contract management practices.
- Apply a price preference to locally based suppliers and contractors with a permanent office and staff based within the Shire

To be eligible to claim a Price Preference, a business must:

- Have had a permanent office and permanent staff in Bourke Shire for a period of six (6) months prior to bids being sought, and;
- Be either registered or licensed in the Bourke Shire.

Aboriginal Procurement Policy Statement

Bourke Shire Council acknowledges the importance of supporting Aboriginal employment opportunities and fostering the growth and participation of Aboriginal businesses. In alignment with the NSW Government's Aboriginal Procurement Policy, the Council will leverage procurement capacity to create sustainable economic opportunities for Aboriginal people and Aboriginal business.

Purchase Orders

A Purchase Order is Councils 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.

Exemptions

The following is a list of circumstances where there is an exemption from the requirement to seek tenders or quotes for purchase contracts, as per the *Local Government Act*:

- (a) a contract entered into with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown.
- (b) a contract entered into with another council.

- (c) a contract for the purchase or sale of land.
- (d) a contract for the leasing of land, other than the leasing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A Local Government Act 1993 as amended).
- (e) a contract for purchase or sale at public auction.
- (f) a contract for the purchase of goods, materials or services specified by the NSW Procurement Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified.
- (g) subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and at a rate not exceeding the rate so specified.
- (h) a contract for the employment of a person as an employee.
- (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.
- (j) contract for which, because of provisions made by or under another Act, council is exempt from the requirement to invite a tender.
- (k) a contract made in a case of emergency.
- (l) the undertaking of tendering for products where there is a contract between the Council and Local Government Procurement.
- (m) if a council has entered into a public-private partnership—a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12).
- (n) a contract involving an estimated expenditure or receipt of an amount of less than \$250,000 or such other amount as may be prescribed by the regulations.
- (o) a contract that is an environmental upgrade agreement (within the meaning of Part 2A of the Local Government Act).
- (p) a contract or arrangement between a council and the Electoral Commissioner for the Electoral Commissioner to administer the council's elections, council polls and constitutional referendums.
- (q) a contract made with a person or body approved as a disability employment organisation under the Public Works and Procurement Act 1912 for the purchase of goods or services in relation to which the person or body is so approved.

- (r) Section 55 of the Local Government Act 1993 (NSW) provides Councils with an exemption from tendering requirements where such items are available under contract by prescribed authorities. Prescribed agencies include Local Government Procurement, Regional Procurement, and Procurement Australia Pty Ltd.

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 and Procedures

- Council Procurement Procedures

- 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 Fraud Control Policy

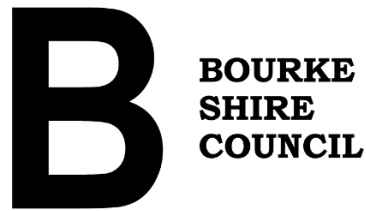
Review and Variations

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

Policy Amendments

Version	Date Approved	Description of Changes
1.8.14 (v8)	28/04/2025	Policy reviewed, amended and format changed.



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.
- **Tenders/Quotations** – The assessment of tenders and quotations will be objective, consistent, documented, transparent and undertaken in accordance with Council's Procurement Policy. Council will only accept one conforming quotation from each supplier. Suppliers will not be given an opportunity to re-quote for the supply of goods and services unless the scope of works changes.

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 document issued by 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 *Local Government Act, 1993* and 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.

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 request to change the item tendered, or procure new items and have new items 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, exclusive of GST.

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 will not be considered, unless as per Clause 177(4) of the Regulation that provides that "The Council must consider a tender submission submitted within a period after the deadline specified in the invitation to tender that the Council decides to be reasonable in the circumstances if the tenderer satisfies the Council that;

- (a) the tender submission was posted, lodged or otherwise sent, in a way specified in the tender proposal document, before the deadline, and
- (b) in the ordinary course of business, posting, lodging or sending in that way would ensure the submission would have been received by the council before the deadline.

Any decision to accept a later tender for consideration should be documented including the rationale for the decision.

Tenderlink

Councils 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-Councils Filing System.