



Council Policy

Procurement Policy

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1. Background and Related Legislation

Council procurement activities are governed by a regulatory framework, particularly Section 55 of the Local Government Act (1993) and Part 7 of the Local Government (General) Regulations 2021. Principles and practices are outlined in documents such as the Department of Local Government' Tendering Guidelines for NSW Local Government (October 2009).

There are many stages in the procurement cycle, ranging from the initial identification of need and the subsequent planning phase, right through to the long term contract management. Tendering and Evaluation is viewed as critical parts of the broader procurement activity, requiring specific activities and considerations.

Procurement Process



2. Scope

This policy applies to all procurement activities at Dubbo Regional Council and is binding upon all Councillors, staff and temporary employees, contractors, and consultants while engaged by Council.

3. Purpose

The purpose of the policy is to define the overarching procurement principles to be followed in all procurement activities undertaken by Council.

Through the implementation of this policy Council will ensure procurement is in accordance with best practice and quality principles, complies with financial delegations, complies with contractual, legislative and regulatory requirements and maximises value for money.

Treatment of GST

All monetary values related to this policy **include GST** except, where specifically stated otherwise.

All goods and services must be procured in accordance with Council's relevant policy or procedures including:

- Purchasing Procedures
- Code of Conduct Policy
- Purchase Card Policy
- Delegations of Authority
- Petty Cash Procedure
- Statement of Business Ethics
- Tender and Evaluation Procedure

An official Council purchase order must be raised and approved in Council's finance system prior to entering into an agreement to purchase goods or services (other than via petty cash or credit card or when other exceptions apply.) In the absence of a formal contract, the purchase order will act as the formal instrument between Council and the supplier. This will also ensure that approval to procure is in accordance with purchasing delegations and that financial commitments are recorded in Council's finance system.

4. Effective legislative and policy compliance

Ethics and Probity

The Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny.

Councillors and Council staff shall at all times conduct themselves in ways that are ethical and will:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of competing companies information, such as pricing, specifications, quotation, tender, bid, or any other commercial or proprietary information;
- present a high standard of professionalism and probity;
- deal with suppliers in an honest and impartial manner and appropriately manage any conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity;
- be able to account for all decisions and provide feedback on them, and
- maintain fair, equitable and non-discriminatory procedures for addressing complaints and concerns raised by suppliers or members of the community regarding Council's procurement activities.

Members of Professional Bodies

Councillors and Council staff belonging to professional organisations shall, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body (for example IPWEA Tendering Code of Practice).

Tender and Quotation Processes

All tender and quotation processes shall be conducted in accordance with the requirements of this policy, and any associated procedures, relevant legislation, relevant Australian Standards and the Local Government Act, 1993.

Conflict of Interest

Councillors and Council staff shall at all times avoid or appropriately manage situations in which private interests might reasonably be deemed to have the potential to conflict, with their Council duties. All conflicts of interest must be managed in accordance with Council's Code of Conduct Policy.

Councillors and Council staff involved in the procurement process, in particular preparing tender documentation, including writing tender specifications, opening and downloading of tenders and evaluation of tenders MUST identify, declare and manage any potential conflicts of interest in accordance with Council's Code of Conduct Policy.

The onus is on the Councillor and Council staff involved, to promptly declare a pecuniary or non-pecuniary, actual or potential, conflict of interest to Council in accordance with the Code of Conduct Policy.

Fair and Honest Dealing

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote. Impartiality must be maintained in selecting contractors and suppliers so that the process can withstand public scrutiny.

The commercial interests of existing and potential suppliers must be protected subject to legislative requirements.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices (other than the price of the successful tenderer's own fixed price lump sum contract), discounts, rebates, profit, manufacturing and product information.

Gifts and Hospitality

All Councillors and Council staff must adhere to Council's Code of Conduct Policy which covers gifts, benefits and hospitality.

Staff must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from them or from the Council, through the provision of gifts, benefits or hospitality of any kind to staff or someone personally associated with a staff member.

Disclosure of Information

Information received by the Council that is commercial in confidence must not be disclosed unless required by law.

Councillors and Council staff are to protect the integrity of the procurement process by maintaining confidentiality over the following:

- information disclosed by organisations in tenders, quotation or during tender negotiations;
- all information that is commercial in confidence; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with potential suppliers during tender or quotation evaluations should only be undertaken by an authorised officer (usually the staff member managing the quotation or tender process) and not go beyond the extent necessary to resolve doubt or clarify what is being offered by that supplier. At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised.

Tenderers should be advised that a report on a tender process may be presented at an open meeting of Council, and some information arising from the tender will be publicly available.

Council's Expectations of Suppliers

It is Council's expectation that whilst participating in tendering or quotation processes suppliers must comply with the Council's Statement of Business Ethics.

Probity Advisor

Council will consider the appointment of a probity advisor for tender requests based on the nature and complexity of the proposed procurement having regard to the level of risk involved. As a guideline, procurements which are greater than \$5 million should include a report from a probity advisor. Council's contract initiation forms provide for the relevant Director to review and recommend the appointment of a probity advisor where deemed necessary.

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.

Council will ensure all tenders take into consideration all relevant ethical supply chain provisions identified in the Modern Slavery Act 2018, by introducing a schedule for contractors to complete.

Risk Management

Council staff involved in procuring goods and services must identify, analyse and manage any risks which may impact on Council meeting its procurement objectives or obtaining best value for money. Risk management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance Council's interests.

Risk management will be carried out in accordance with the stated requirements in the Risk Management Policy and the Guidelines for WH&S Management of Contractors and any Federal or State regulatory requirements.

Endorsement

Council Staff must not endorse any products or services. This clause should not be read to preclude Council staff from providing references to other agencies on Council's experience with contractors or suppliers or from presenting to industry forums on similar matters.

5. Demonstrate sustained value

Achieving Value for Money

The Council's procurement activities will be carried out on the basis of obtaining value for money. Lowest price is not necessarily an indicator of value for money and cost is not the only factor for assessing value for money. Other factors such as technical capability to meet specification, risk management, environment and work health and safety, financial capacity, economic contribution to the council, sustainability, quality, customer service, resource management, continuous improvement, fitness for purpose and social considerations may be considered in assessing competing companies' submissions.

Approach

This will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout;
- effective use of competition;
- using schedule of rates and panel contract arrangements where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- pursuing innovative practices
- more emphasis placed on procurement planning processes;
- developing a more cost efficient tender process including appropriate use of e-solutions;
- providing competent advice in terms of available products and agreements;
- working with suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being acquired;
- undertaking analysis of Council's category spending patterns; and

- ensuring procurement effort corresponds with risk and expected return.

Sustainable Procurement

Council is committed to reducing its environment impacts and operating in a socially, financially and environmentally responsible manner.

Council will encourage the design and use of products and services which have minimal impact on the environment and human health. This includes, but is not limited to:

- Recycling
- Waste Management
- Emissions Management
- Water Conservation
- Energy Management, and
- Green Building Design

Council shall encourage suppliers to adopt good environmental practices and requires suppliers, where relevant, to have an Environmental Management System.

Council will actively promote green procurement throughout its supply chain and where possible consider selection which has minimum environmental impact. The Council aims to achieve this by:

- Taking into account the need to minimise emissions and reducing the negative impacts of transportation when purchasing goods and services;
- Taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products and services procured;
- Considering the environmental performance of all suppliers and contractors and encouraging them to conduct their operations in an environmentally sensitive manner;
- Selecting products/services that have a minimal effect on the depletion of natural resources and biodiversity;
- Giving a preference to fair-trade, or equivalent and ethically sourced and produced goods and services;
- Ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product and service being procured.
- Training Council staff with procurement responsibilities on sustainability considerations within the procurement process.
- Reducing and eliminating as far as is practicable the use and consumption of single use and soft plastics across its corporate operations including festivals, events and applicable activities on any land or building owned and managed by Council.

Supporting Local Businesses

Council is committed to buying from local businesses where such purchases may be justified on value for money grounds.

Local business means a supplier that:

- I. is beneficially owned and operated by persons who are residents or ratepayers in the Dubbo LGA;
- II. has its principal place of business within the Dubbo LGA; or
- III. otherwise has a place of business within the local area that solely or primarily employs or subcontracts persons who are residents or ratepayers in the Dubbo LGA.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within the Dubbo LGA.

For all tenders where a non-local supplier has provided a proposal for goods or services all local supplier proposals for the same request will have, for evaluation purposes, a nominal 5% deduction to their quoted price.

Where a non-local supplier has provided a proposal and has demonstrated in their proposal they are using local businesses and / or contractors they are to list the value of local content and the local content, for evaluation purposes they will have a nominal 5% deduction to the local content price.

A statement indicating Council's policy for supporting local businesses, is to be provided to any potential suppliers prior to their decision to submit a proposal.

When reporting the result of a tender evaluation process, the application of the policy should be clearly referred to and details provided regarding any additional costs to be incurred by Council if it accepts a tender, other than the lowest tender, as a result of the implementation of the policy.

Indigenous Business and Recognised Social Enterprises

Council is to maintain formal membership of an Indigenous sourcing panel. This specialised procurement sourcing panel allows Council to direct work offers to certified and registered Indigenous businesses.

WH&S and Other Mandatory Requirements

Council undertakes due diligence activities on all suppliers to ensure compliance to legislative and business requirements. Council requires all contractors, service providers and volunteers to comply with all WH&S legislative requirements. These are mandatory requirements and non-compliance will disqualify prospective suppliers. Suppliers must provide the following:

- Evidence of certification that plant equipment and substances have been tested or examined to comply with prescribed Australian or International Standards where applicable
- Evidence of conformance of any product, item of plant or equipment with WHS Legislation, Regulations and approved Codes of Practice,
- Safety Data Sheets are to be provided for all substances.

- Evidence of appropriate current insurances in providing goods, services or works.