

POLICY:-	
Policy Title:	Procurement Policy (Replacing Purchasing Acquisition of Goods and Services Policy)
File Reference:	F10/618-011
Date Policy was adopted by Council initially:	18 November 2004
Resolution Number:	319/04
Other Review Dates:	19 March 2009, 16 December 2010, 15 December 2011, 20 April 2017
Resolution Number:	116/09, 472/10, 489/11 109/17
Current Policy adopted by Council:	15 July 2021
Resolution Number:	118/21
Next Policy Review Date:	2024

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy developed by:	Procurement Coordinator
Committee/s (if any) consulted in the development of this Policy:	N/A
Responsibility for implementation:	General Manager
Responsibility for review of Policy:	Director of Finance and Administration

PART 1 - INTRODUCTION

1. BACKGROUND

1.1 Council staff have an obligation to procure goods and services to achieve the best value for money. To assist staff, this policy has been updated to provide simple practical guidance on the minimum obligations of any staff when spending public money. More detailed, specific requirements are listed within the appropriate procedure.

2. OBJECTIVE

2.1 The objective of this Policy is to set out the principles and framework for Council's procurement activities and to ensure that Council is at all times compliant with the *Local Government Act 1993*, *Local Government (General) Regulations 2005*, Tendering Guidelines for NSW Local Government and Council's Code of Conduct in relation to the procurement of goods and services.

2.2 Through the application of this Policy, Council is committed to the following:-

- Obtaining value for money for the Community;
- Fairness, openness, transparency and accountability;
- Making environmentally sustainable decisions;
- Eliminating any conflicts of interest;
- Ensuring probity
- Monitoring and evaluating performance;
- Providing policy and guidance on procurement activities to ensure consistency;
- Improving Council's procurement governance framework;
- Minimising risk.

3. SCOPE

3.1 This Policy applies to all procurement, tendering and contracting activities undertaken by Upper Lachlan Shire Council, other than statutory payments or payments for membership of regional or state organisations and is binding on Council Officers (i.e. staff, contractors, consultants, Committee members and volunteers) who are involved in any aspect of procurement on behalf of Council.

4. DELEGATED AUTHORITY

4.1 In order to purchase goods and services on behalf of Council, a *delegated authority* is required from the Council General Manager. Numerous employees of Council are charged with financial delegations for the *Purchasing and Procurement of Goods, Works and Services*. Employees may only procure goods and/or services applicable to their delegated authority.

Financial delegations define the financial limitations within which specified staff may approve a purchase, quotation and contractual processes. Employees may only procure goods and/or services in accordance with these delegations.

PART 2 - POLICY STATEMENT

5. PURCHASING PROCEDURES

5.1 Prescriptive purchasing procedures are located in Council's *Procurement Procedures and Guidelines* documentation.

5.2 The procedures outline Council's requirements when procuring goods and/or services on behalf of Council. Different requirements apply, depending on the total value of the supply.

5.3 All goods and/or services procured on behalf of Council must be procured following these procedures.

5.4 Purchasing requirements includes; quotations, EOI and/or RFQ for goods and services less than \$250,000.00 (GST Inclusive). Employees are to provide suppliers with Council's standard approved Purchase Order and/or Contract Number prior to commencement of supply.

6. TENDERING PROCEDURES

6.1 Public tenders are *mandatory* for purchases, under *Section 55 (1) (2) of Local Government Act 1993*, where the total anticipated expenditure is \$250,000 (GST inclusive) or above over more than one accounting period. Council may also choose to tender for purchases below this limit.

6.2 Detailed tender procedures and a tender assessment checklist are contained in Council's *Procurement Procedures and Guidelines*.

6.3 It is noted that the process for public tendering may be waived when dealing with prescribed NSWBuy Government Contracts, Local Government Procurement (LGP), Disability Employment Organisations or Procurement Australia Contracts. Advice on this may be sought from Council's Financial Accounting Section and Council Procurement Coordinator.

6.4 Exemptions to tender requirements, under *Section 55 (3) of the Local Government Act 1993*, includes; purchases for emergency situations and procurement by a local council to other councils.

7. PROCUREMENT PROTOCOLS

7.1 Ethics and Probity

All Council Officers must comply with the standards of integrity, probity, professional conduct and ethical behaviour established by Council's *Code of Conduct*, Code of Business practices and Guidelines issued by ICAC.

Council officials must disclose any potential or actual conflict of interest (whether pecuniary or non-pecuniary) in order to protect the public interest and prevent breaches of public trust.

Council has adopted a Code of Business Practice which sets out the standards of behaviour that Council expects from its private/public partners.

Probity auditors/advisors may be commissioned where deemed appropriate by Council's General Manager, in circumstances where additional professional knowledge, experience or independent recommendation is required.

7.2 Fraud and Corruption Principles

The principal elements of Council's Fraud and Corruption Prevention Policy are:-

- Preventing fraud at its origin, in particular, implementing effective control structures and procedures that aim to eliminate the prospect of fraud occurring;
- Making all staff, Councillors, contractors to Council and volunteers aware of their obligation to act ethically and to follow Council's Code of Conduct at all times;
- Making all contractors and those dealing with Council aware of the ethical standards that Council applies and of the ethical standards of others in their dealings with Council;
- Committing to a policy of detection, investigation and prosecution of individual cases of fraud; and
- Respecting the civil rights of employees and members of the public and committing to natural justice.

Council has a Fraud and Corruption Prevention Plan that underpins this Policy and details responsibilities of positions within Council and the community. It also outlines steps involved in identifying, investigating, reporting and taking action around fraud and corruption.

The Fraud and Corruption Prevention Plan and Council's Code of Conduct also outline the policies and procedures being implemented by Council to ensure that any allegations and subsequent investigations into fraud are handled confidentially and in accordance with applicable legislation.

7.3 Value for Money

Council resources are to be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

7.4 Record Keeping

All substantive communications with potential suppliers in respect of procurement and purchasing should be in writing and/or formal minuted meetings. Records for all procurement activities must be kept and recorded in Council's records management system and Council's corporate finance system.

7.5 Lobbying

Lobbying of Councillors and staff by tenderers or their agents is not permitted and shall result in their disqualification from the quotation or tender process on that occasion. For the purposes of this clause "lobbying" shall include seeking to influence, seeking to obtain support or assistance, urging or persuading.

7.6 Gifts and Benefits

Council Officers must never seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence their decision making.

In some circumstances token gifts may be accepted but only in situations that do not create a sense of obligation on the staff or Councillors actions. Where you cannot reasonably refuse or return a gift or benefit of more than token value this must be disclosed to your supervisor and then ensure this is recorded in the Gifts and Benefits Register through Governance. Under no circumstances should a gift of cash, or cash – like gift, be accepted. Please refer to Council's Bribes, Gifts and Benefits Policy.

7.7 Local Supplier Support

Council currently does not have a Local Preference Policy.

7.8 Risk Management

Managing risk is fundamental to effective procurement. Risk management is as much about identifying opportunities as avoiding and mitigating losses. Identification, analysis, assessment, treatment and monitoring of risk in procurement will contribute to successful outcomes.

Ensure segregation of duties in the requisitioning, approval and payment functions to minimise fraud risks.

Council Officers should consider not just the purchase price but also the availability and whole of life costs including those associated with acquisition,

implementation, running, maintenance, depreciation, decommissioning and disposal.

Council Procurement Coordinator is to maintain a Contract Register and register of procedures for evaluation, including clear guidelines of expectations for contractor performance and maintenance by contractors of agreed insurance and liability coverage.

8. SUSTAINABLE PURCHASING

8.1 Council supports a sustainable procurement quadruple bottom line approach around civic leadership, social, environmental and economic pillars by incorporating these within planning activities.

8.2 Council staff and its representatives must consider the impact that their purchases have on the environment. Value for money in procurement is enhanced by promoting the efficient, effective and ethical use of resources.

8.3 Consideration will be given to areas such as:-

- Minimising greenhouse gas emissions, waste, habitat destruction, soil degradation and toxicity;
- Maximising water efficiency.

9. WORKPLACE HEALTH AND SAFETY

9.1 All contractors of Council must adhere to relevant Work Health and Safety (WHS) 2011 legislation. WHS performance will be monitored and reviewed to ensure continued adherence to legislation and relevant Council policies and procedures.

10. ADMINISTRATION OF THIS POLICY

10.1 General enquiries in regard to this Policy should be directed in the first instance to Council's Procurement Coordinator.

10.2 Council will deal promptly with any concerns or complaints regarding this Policy. Any issues should be directed in writing to the General Manager.

RELEVANT LEGISLATIVE INSTRUMENTS

- *Local Government Act 1993;*
- *Local Government (General) Regulations 2005;*
- *Tendering Guidelines for NSW Local Government;*
- *Independent Commission Against Corruption Act 1988;*
- *Ombudsman Act 1974;*
- *Work Health and Safety Act 2011;*
- *Public Interest Disclosures Act 1994;*
- *Local Government Code of Accounting Practice and Financial Reporting;*
- *Government Information (Public Access) Act 2009;*
- *Waste Avoidance and Resource Recovery Act 2001;*
- *Related Party Transaction Act 2016;*
- *Privacy and Personal Information Protection Act 1998;*
- *State Records Act 1988.*

RELATED POLICIES, PLANS AND PROCEDURES

- Code of Conduct
- Procurement Procedures and Guidelines
- Audit, Risk and Improvement Charter
- Code of Business Practice
- Corporate Credit Card Policy
- Delegations of Authority Policy and Procedure
- Disposal of Council Assets Policy
- Disposal of Council Real Estate Policy
- Government Information (Public Access) Policy
- Internal Control Policy and Procedures
- Internal Audit and Risk Management Policy
- Work Health and Safety Policy
- ICAC Guidelines
- Fraud and Corruption Prevention Policy
- Fraud and Corruption Prevention Plan
- Records Management Policy
- Bribes, Gifts and Benefits Policy
- Disciplinary Action Policy

VARIATION

Council reserves the right to vary or revoke this Policy in accordance with changes to Legislation and/or Council Policies and Procedures.