

# Procurement Policy

As at September 2020



# PROCUREMENT POLICY

<b>RESPONSIBILITY</b>	Corporate Services		
<b>DATE ADOPTED</b>	25 August 2012	<b>MINUTE</b>	
<b>REVISED</b>	September 2020	<b>REVIEW</b>	2021
<b>ECM No</b>	1352114		
<b>ASSOCIATED POLICIES</b>	<ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• Business Ethics Policy</li> <li>• Sustainable Procurement Policy</li> </ul>		
<b>ASSOCIATED LEGISLATION</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1993</i></li> <li>• <i>Local Government (General) Regulation 2005 – Part 7 Tendering</i></li> <li>• <i>Government Information (Public Access) Act 2009</i></li> </ul>		
<b>ASSOCIATED GUIDELINES</b>	<ul style="list-style-type: none"> <li>• Tendering Guidelines for NSW Local Government (Division of Local Government)</li> <li>• Strathfield Council Purchasing and Tendering Guidelines</li> </ul>		

## 1.0 Introduction

### 1.1 Title and Commencement

This policy is titled *Procurement Policy* and was adopted on 25 August 2012 by approval of the General Manager. The following amendments have been made:

Date	Amendment	Approval
17 November 2014	Revised to include recommendations from procurement review	General Manager
19 September 2016	Revised to increase purchasing thresholds as a result of purchase to pay financial analysis.	General Manager
23 September 2016	Revised policy	General Manager
September 2021	Review	CEO

### 1.2 Background and Purpose of Policy

The objective of this policy is to set out the principles and framework for Council's purchasing and 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*, Council's Code of Conduct and Business Ethics Policy in relation to the procurement of goods and services. The Act defines a clear distinction between procurement involving

expenditure of an amount less than the tender threshold (currently \$150,000) and expenditure greater than the threshold.

### 1.3 Objectives of the policy

The objectives of the policy are to:

- provide policy and guidance on purchasing and procurement activities to ensure consistency
- ensure effective and efficient procurement
- set out Council's procurement governance framework
- ensure that all procurement activities are conducted with honesty, fairness and transparency

### 1.4 Coverage of the Policy

The policy applies to all purchasing, procurement, tendering and contracting activities undertaken by Strathfield Council, other than statutory payments or payments for membership of regional or state organisations and is binding on all councillors, Council staff, suppliers, contractors and consultants. The General Manager or an officer delegated with such authority must approve non-compliance or any deviations from the policy.

### 1.5 Purchasing and Tendering Guidelines

Council's Purchasing and Tendering Guidelines provide guidance for Council staff in their day to day activities in managing purchasing, quotations, tendering and expressions of interest and contract management.

The Guidelines are a set of documents that may be amended from time to time to incorporate changes to legislation and keep pace with best practice.

### 1.6 Definitions

**Procurement** is the sourcing of goods and services through a predefined set of processes and doing so in an ethical and efficient manner that will achieve best value to Council. Usually the process begins by defining business needs, seeking potential providers in the market, selecting and putting a contract in place and then monitoring and managing the performance.

**Purchasing** is the process of obtaining goods and services from suppliers that have undergone the Procurement process either with Council or Local Government Procurement, or other providers not under contract.

**Purchase Order** is Council's official document used to purchase goods or services from an external supplier. A purchase order confirms the contractual arrangement

between Council and the supplier and is generally used for procurement of goods and services up to \$150,000 (GST inclusive).

**Preferred Supplier** means are those suppliers that have been approved following an Expression of Interest (EOI) process.

**Request for Tender** is a procurement process which involves a set of steps to seek responses for a specific good or services from external providers on capability, capacity and cost. RFT usually results in the formation of a contract with either one or more suppliers as a result of the outcome.

**Expression of Interest (EOI)** is a process to seek responses from interested suppliers in the external marketplace who are able and willing to provide goods and services as required by Council.

**Contractor** is a Person, corporation or service provider who contracts for the supply of goods on the performance of services.

**Selective Tender** is a document which contains all relevant Council terms and conditions and specifications, as derived from responses to EOI and directed specifically to EOI respondents only.

**Consultant** is a Professional individual or organisation providing designs, management, or other services to a principal, contractor, sub-contractor, client or supplier.

## **2.1 Financial Delegations for Procurement**

Financial delegations define the financial limitations within which specified staff may approve a purchase, quotation and contractual processes. All procurement must be undertaken within these delegations.

## **2.2 Categories and Thresholds for Procurement**

The minimum levels of procurement thresholds are shown below. It is not acceptable for procurement to be divided in smaller amounts eg order splitting to circumvent the requirements of this policy.

Threshold	Approach to Market
Value less than \$5,000 (incl GST)	<b>If no preferred supplier agreement or state contract obtain verbal quotation on competitive quotations from preferred supplier.</b>
\$5,001 - \$9,999 (incl GST)	<p><b>If no preferred supplier agreement on state contracts, obtain minimum of three (3) verbal or written quotes</b></p> <p>- Purchasing Assessment Form Required - Specification/Request for Quotation Required</p> <p><b>Minimum 1 Quote required for:</b> suppliers appointed under supply contracts such as State Government, Local Government Procurement, Procurement Australia, Regional Organisations of Councils or an approved Council panel Preferred Supplier</p>
\$10,000 to \$149,999 (incl GST)	<p><b>Obtain minimum of three (3) written quotes.</b></p> <p><b>Minimum 1 Quote required for:</b> suppliers appointed under supply contracts such as State Government, Local Government Procurement, Procurement Australia or Regional Organisations of Councils or an approved Council panel Preferred Supplier</p>
\$150,000 + (incl GST)	<p><b>Public Tender/EOI/Selective Tender or</b></p> <p><b>Minimum 1 Quote required for:</b> suppliers appointed under supply contracts such as State Government, Local Government Procurement, Procurement Australia or Regional Organisations of Councils or an approved Council panel Preferred Supplier</p>

### 2.3 Principles of Policy

Strathfield Council will act in the interest of our residents, ratepayers and the community when considering expenditure of public money.

Council will apply the following key principles when undertaking any procurement activity or process:

- Openness, transparency and accountability
- Fair and effective competition
- Best value for money; and
- Sustainability

## **2.4 Tender Panels**

A tender panel must be established at the outset to assist with all aspects of the tender process, including consideration and selection of tenders. A tender panel must consist of a minimum of three (3) Council officers and comprise representatives from major user business units and may include at least one independent member with knowledge and expertise relating to the goods and/or service being procured.

## **2.5 Work, Health & Safety (WHS)**

Council is committed to providing workplace that is safe and without risk to health or the welfare of all council officers, contractors and members of the public in our workplaces, and the effective rehabilitation of injured council officers.

Contractors working for the Council must comply with all NSW Government legislation, Acts and Regulations applicable to WHS, Injury Management and Worker's Compensation, as well as particularly the following:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Workers Compensation Act 1987
- Workplace Injury Management and Workers Compensation Act 1998
- Workers Compensation Legislation Amendment Act 2002
- Workers Compensation Legislation Amendment Act 2003
- Various Code of Practices issues by State Cover NSW
- Current Version of NSW Government WHS Management System Guidelines

In addition to the above, contractors must adhere to the provisions of Council's WHS policies. These provisions may be in addition to, but not in substitution of, any other WHS requirement of any legislation or condition of contract. Failure to observe any WHS requirement will be deemed a breach of the Contract.

## **2.6 Goods & Services Tax (GST)**

Suppliers must have an Australian Business Number (ABN) unless a Statement by a supplier – Reason for not quoting an Australian Business Number (ABN) form (ATO form number NAT3346-2.2004) has been completed and submitted to Finance Officer – Accounts Payable.

## **2.7 Exemptions to Procurement Policy**

There will not always be multiple quotations readily available. The following circumstances may preclude staff from adhering to the above requirements and will require a Procurement exemption form to be submitted in ECM with the purchase order:

- 1 The goods and/or services being sought are specialised in nature and there are less than three known suppliers available in the market place.
- 2 The goods being sought are to replace a component that is only produced by one or two specialist suppliers.
- 3 Where the goods and/or services is not available within the requested time in order to meet organisational requirements
- 4 Where the goods and/or services requested is to upgrade or repair a proprietary product. An example of this may be a software upgrade that is required.
- 5 Repairs to plant or machinery that require the plant or machinery to first be dismantled and allow for inspection before a quote is obtained. In these cases, the cost involved in undertaking the 'dismantling and inspection' will generally outweigh any price difference to be obtained through market testing. The cost of reassembling the plant or machinery to enable another company to tear down and inspect would also be prohibitive.
- 6 Smash repairs to Council's fleet. These repairs are completed utilising a council approved repairer at predetermined insurer approved rates. It would be impractical and cost prohibitive to have the vehicle transported around to assess damage by various smash repair companies in the market. Insurance Assessors review the quotation and ensure the value is within acceptable industry standards and costs.
- 7 Where it can be demonstrated that there is an immediate safety or health hazard to the general public in regard to the built and natural environment and the service requested is unable to be initially determined and requires a level of inspection matters such as (i.e., sewer chokes, asbestos) where the scope of works is not fully identified.
- 8 Where the goods and/or services providers are on a Council preferred suppliers list that is established as part of a regular market testing exercise.

There may be exceptions where there is (a) a genuine urgent circumstance, (b) where there is only one firm or person capable or available to undertake the task, or (c) where it is a continuance of a previous specialised task. In such circumstances, the arrangement is to be commercially negotiated to achieve the best value for money. This exception can only be followed after written agreement by the relevant Director and/or the General Manager in accordance with established delegations of authority.

The expenditure listed below has been identified as being exempt from a Purchase Order being generated to proceed with this purchase:

	<b>Type of Expense</b>	<b>Action Required</b>
1	Out-of-pocket petty cash not exceeding \$100	Submit approved petty cash voucher form to Finance – Accounts Payable with supporting tax invoice receipts attached.
2	Corporate Credit Card Purchases	Credit cardholder to submit monthly Credit Card Expenditure form to Finance – Accounts Payable with supporting tax invoice receipts attached.
3	Manual cheque payments	Submit approved Cheque Requisition Form to Accounts Payable Finance with tax invoice and/or other supporting documentation attached.
4	Statutory and Government Payments Administrative Payments Donations & Contributions Payment Refunds Membership eg LGMA, LGNSW etc	Submit appropriate form to Accounts Payable - Finance with tax invoice receipts and/or other supporting documentation attached.
5	Legal expenses from tender legal panel	Submit appropriate form to Finance.
6	Council - Utility services	Utility services invoiced without a PO are directly processed by Finance – Accounts Payable

This list may change from time to time based on Council's operational requirements.

### **3.1 Ethics and Probity**

Councillors and Council staff shall at all times conduct themselves in accordance with Council's Code of Conduct, Business Ethics Policy and highest standards of ethical behaviour, which will:

- treat potential and existing suppliers with equality and fairness
- not seek or receive personal gain
- maintain confidentiality of 'commercial in confidence' information
- present the highest standards of professionalism and probity
- deal with suppliers in an honest and impartial manner that does not allow 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
- not be involved in any activity such as performing work with suppliers, consultants or contractors

All business partners of Council including prospective partners must agree to the conditions set out in Council's Business Ethics Policy, which sets out the ethical standards expected of Council's suppliers and business partners.

### **3.2 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.

### **3.3 Record Keeping**

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

### **3.4 Lobbying**

Lobbying of Councillors and staff by tenderers or their agents is not permitted and shall result in their disqualification from the 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.

### **3.5 Gifts and Benefits**

Anyone wanting to do business with Council must understand that business practices such as offering of gifts, benefits and incentives is not permitted at Strathfield Council. Under no circumstances should a gift of money or cash-type gift (eg gift cards) be made to a member of Council staff or councillor.

As offering of gifts and benefits may be perceived as an attempt to unfairly influence decisions and services, Council expects Councillors and Council staff to decline gifts or benefits. Council employees and councillors who are offered any gift or benefit must immediately inform the General Manager in writing.

Gifts and benefits are recorded in Council's Gift Register and Benefits Register.

### **3.6 Impartiality, transparency and accountability**

Impartiality must be observed throughout the entire procurement process so as not to exclude or favour any provider.

Accountability is important as funds must be used in the most cost effective and efficient manner.

### **3.7 Conflict of Interest**

All persons, including Councillors, Council staff and applicants, involved with procurement processes are required to declare any conflicts of interest and take appropriate action.

### **3.8 Achieving Value for Money**

Price is not the sole determinant of value for money. Purchasing decisions should be made on the basis of value for money over the life cycle of products, rather than just the up-front purchase price.

This means minimising the total cost of ownership over the lifetime of the good or service consistent with acceptable quality, reliability, safety, risk and delivery considerations.

### **3.9 Environmental Performance**

Council's Sustainability Procurement Policy commits Council to procuring sustainable products and services that are cost competitive and where applicable:

- minimise unnecessary purchasing – only purchase when a product or service is necessary.
- minimise waste – purchase in accordance with reduce, reuse and recycle strategies.
- save water and energy – purchase products that save energy and/or water.
- minimise pollution – avoid purchasing products that pollute soils, air or waterways.
- eliminate toxic products – avoid where possible purchasing hazardous chemicals that may be harmful to human health or ecosystems.
- reduce greenhouse emission – purchase products that reduce greenhouse gas emissions.
- achieve biodiversity and habitat protection – purchase in accordance with biodiversity and conservation objectives.
- value for money – purchase the best value for money in the long term.

### **4.0 Risk Management**

Risk Management is to be appropriately applied at all stages of the procurement process which must be properly planned and carried out in a manner that will ensure risks are identified and appropriately managed.

### **5.0 Non-Compliance**

Non-compliance with this policy may result in disciplinary action and/or dismissal.

### **6.0 Variation**

Council reserves the right to vary the terms and conditions of this policy

This Policy is automatically amended as a result of any changes to the *Local Government Act 1993*, the *Local Government (General) Regulation 2005*, or other amending legislation, it being noted that the Act and Regulations take precedent over the Council's Policy.

## Tender Process – Step by Step

Gain approval from delegated officer to proceed with purchase and tendering method (e.g open, selective)
Prepare specifications and complete risk assessment.
Prepare tender documentation using Council’s tender templates. Document to be checked by Council’s legal team and Procurement Specialist
Advertise tenders allowing min 21 days after date of publication tender closure.
<ul style="list-style-type: none"> <li>• Prepare tender weighting form</li> <li>• Prepare tender scoring form</li> <li>• Prepare Conflict of Interest form <ul style="list-style-type: none"> <li>• Appoint Tender Panel</li> </ul> </li> </ul>
Weight tender selection criteria <u>immediately prior</u> to tender opening. Tender panel to sign weighting form
Open tenders with minimum 3 delegated officers in attendance. List names of tenderers on “Tender Opening Record” and sign
<p style="text-align: center;">Tender panel to meet to:</p> <ul style="list-style-type: none"> <li>• Sign Conflict of Interest form</li> <li>• Score tenders using Weighting form, tender assessment template and “Scoring Bands”</li> </ul>
Prepare report to Council
Council resolution to accept recommendation
Relevant Council Officer to advise successful tenderer/s of acceptance via letter of award
Produce order/sign formal contract agreement, and advise unsuccessful tenderers