

COUNCIL POLICY



Policy Name	Procurement and Tendering
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Abstract

This Policy outlines clear, guiding principles and standards by which all of Council's procurement and tendering activities are to be conducted.

Dates	Policy or amendment approved Policy or amendment takes effect Policy is due for review (up to 4 years)	15 Mar 2023 16 Apr 2023 15 Mar 2027
Endorsed by	Executive Leadership Team	
Approved by	Gunnedah Shire Council at its Ordinary Meeting of Council held 15 Mar 2023. Resolution number: 5.03/23	
Policy Custodian	Director Corporate Services	
Relevant to	Gunnedah Shire Council Elected Members Council staff and volunteers, suppliers and contractors General public	
Superseded Policies	Procurement and Tendering adopted 16 Dec 2020 - Resolution 5.12/20	
Related Documents	Management Directive – Procurement and Tendering, Procedure – Procurement and Tendering, Statement of Business Ethics, Instrument of Delegation of the General Manager, Tendering Guidelines for NSW Local Government, Code of Conduct, Accounts Payable Procedures, Management Directive – Corporate Credit Cards	
Related Legislation	Local Government Act 1993 Local Government (General) Regulation 2021 Competition Policy Reform (NSW) Act 1995 Independent Commission Against Corruption 1988 Local Preference Policy Government Information (Public Access) Act 2009 Modern Slavery Act 2018 (NSW)	

Contents

1. Purpose
2. Scope
3. Definitions
4. Policy Principles
5. Policy Statement
6. Accountability, Roles and Responsibilities
7. Acknowledgements
8. Version Control and Change History

1. Purpose

- 1.1 The purpose of this Policy is to outline clear, guiding principles and standards by which all of Council's procurement and tendering activities are to be conducted.
- 1.2 This Policy has been designed to assist with ensuring compliance with relevant legislation, achieving best value for money, transparency and probity in process and promotion of good management practices whilst at the same time being able to meet the diverse needs of the Council and the Gunnedah community.

2. Scope

- 2.1 This Policy applies in full to any person who undertakes or is involved in Council's procurement and tendering activities, including Councillors, employees, suppliers, contractors, consultants and/or delegates.
- 2.2 The Policy pertains to all procurement processes and activities undertaken by Council, including purchasing, ordering, quotations, tendering, entering contracts and disposal of property.
- 2.3 This Policy is to be read in conjunction with all applicable legislation, Council's Management Directive on Procurement and Tendering and associated Procedure documents.

3. Definitions

Term	Definition
Act	Local Government Act (NSW) 1993
Best Value or Value for Money	Best value in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none">▪ contribution to the advancement of Council's objectives;▪ non-cost factors such as fitness for purpose, quality, service and support; and▪ cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
Declared Natural Disaster	a natural disaster that has been declared in relation to the area of a council by either— (a) a Natural Disaster Declaration for the purposes of the Natural Disaster Relief and Recovery Arrangements jointly administered by the Commonwealth and the States and Territories, or (b) a declaration under the <i>State Emergency and Rescue Management Act 1989</i> , section 33.
Expression of Interest (EOI)	Is a process used by Council to invite potential service providers/suppliers to register or express interest in tendering for a particular contract.
GIPA Act	Government Information (Public Access) Act 2009
Modern Slavery	As defined in the <i>Modern Slavery Act 2018</i> (NSW) as any conduct

	constituting a modern slavery offence within the meaning of that Act and any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply chains of organisations.
Procurement	Procurement is the whole process of acquisition of external goods, services and works, managing the procurement and any disposal.
Quotation	A quotation is an external supplier's bid or offer to provide goods or services and represents a statement of price, terms of sale and description of goods/services offered by the supplier.
Social Procurement	Social procurement uses procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of cost efficient goods, services and works.
Regulation	Local Government (General) Regulation 2021.
Sustainable Procurement	Refers to the process of purchasing goods, services, works and utilities in a way that achieves value for money on a whole-of-life basis to generate benefits not only to the organisation but also to society and the economy, whilst minimising damage to the environment and human health.
Tendering	Formal process for seeking offers for the supply of goods and services and the disposal of property whereby an invitation is extended and offers are made and considered, according to a set of pre-determined assessment criteria, prior to the creation of a contract for the supply of goods and services.

4. Policy Principles

Gunnedah Shire Council ("Council") will act in the interest of our ratepayers, residents and the wider community when considering expenditure of public monies. In so doing, Council will apply the following key principles when undertaking any procurement activity or process:

4.1 Accountability and Transparency

- 4.1.1 Council values the highest professional standards in all of its business dealings and the spending of Council funds must always be justified. The organisation's procurement and tendering activities will be conducted through a planned, logical and clear process that complies with all relevant legislation.
- 4.1.2 Council's procurement and tendering processes are to be verifiable. All activities will be documented and/or recorded appropriately so as to provide a robust and transparent audit trail.
- 4.1.3 Council is committed to continuous improvement. Its procurement practices and procedures will be reviewed and audited regularly so as to ensure compliance with current legislation, to take into account market changes and be able to help meet its wider strategic objectives.

4.2 Value for Money

- 4.2.1 Council strives to achieve value for money and quality in all of its procurement activities. Council will select goods, services and suppliers that are 'fit for purpose' and that represent the best overall 'whole of life' value for Council, not necessarily the lowest priced conforming offer. Consideration will also be given to sustainable outcomes that are cost effective, generate social value, are environmentally friendly and support local businesses and organisations where possible.

- 4.2.2 Council will look to ensure value for money and cost effectiveness by adopting a purchasing method framework that promotes market competitiveness through obtaining sufficient quotations and tenders when legislatively required and/or where deemed beneficial but that also makes sure that excessive time and resources are not spent on simple purchases of low value.

4.3 Open and Effective Competition

- 4.3.1 Council recognises the commercial and economic benefits of open and effective competition. Council is to make certain that purchasing processes are impartial, open and that healthy competition is encouraged in the markets from which it purchases.
- 4.3.2 Open and effective competition will be achieved through treating all suppliers consistently and equally, demonstrating and operating within a clear purchasing process, avoiding biased specifications and adequately testing the market.

4.4 Probity, Ethical Behaviour and Fair Treatment

- 4.4.1 All of Council's procurement activities are to be performed with integrity and in a manner that can withstand the highest level of scrutiny.
- 4.4.2 Council officers engaged in procurement and tendering activities are at all times to undertake their duties ethically and to uphold the standards of conduct referenced in Section 5.1 of this Policy.
- 4.4.3 Council will continually respect the rights and expectations of tenderers and contractors to be treated fairly throughout all stages of the procurement process. In doing so, Council will ensure that the same information is provided to all suppliers and tenderers and that all buying is performed without prejudice.

4.5 Workplace Health and Safety and Risk Management

- 4.5.1 Council is committed to protecting human health, safety and welfare. Workplace Health and Safety standards are to be applied at all stages of the procurement process to ensure the health, safety and welfare of its elected members, staff, volunteers, customers, contractors and the general public.
- 4.5.2 Council requires that all contractors, service providers and volunteers comply with all WH&S legislative requirements and that they be able to provide evidence of any relevant insurance if and when deemed appropriate.
- 4.5.3 All procurement and tendering activities are to conform to Council's Risk Management Framework. Risks are to be identified, assessed and managed at all stages of the procurement process in order to protect and enhance Council's ability to prevent, endure and recover from interruption to the supply of goods, works and services.

5. Policy Statement

5.1 Standard of Conduct

- 5.1.1 All persons involved in Council's procurement activities are to work in accordance with the values and business principles described in Council's Statement of Business Ethics, at all times. Suppliers and contractors (and their employees or subcontractors) are also expected to comply.
- 5.1.2 In addition, Council's Code of Conduct clearly outlines the professional standards by which all persons must comply when carrying out their relevant functions as Council officials. These professional standards are also to be adhered to by all persons,

including Councillors, Council staff and contractors, when undertaking any procurement related activities for or on behalf of Council.

5.2 Purchasing Controls

- 5.2.1 All purchasing activities are to be performed within the guidelines of Council's Policy, Management Directive and Procedures for Procurement and Tendering, which together, document a set of clear procurement protocol and processes that are to be strictly followed to not only ensure legislative compliance but also to ensure the effective and efficient management of all procurement related activities.

5.3 Local Preference Policy

- 5.3.1 The Local Preference Policy is designed to ensure that Council achieves the best 'overall value-for-money' in its procurement of goods and services, while (where possible) giving preference to local supplies to support economic development in the Gunnedah Local Government Area (LGA).
- 5.3.2 The Local Preference Policy should be read in conjunction with the Procurement and Tendering Policy.

5.4 Modern Slavery

- 5.4.1 Suppliers of goods and services to Council must take reasonable steps (appropriate to their size and circumstance) to identify, assess and address modern slavery risks within their operations and supply chains.
- 5.4.2 The Supplier must notify Council in writing as soon as practicable of any Modern Slavery occurrence or human rights violations detected within their operations or supply chain and the remedial action taken, including actions to reduce the risk of future occurrence. Failure to notify and to take action to rectify the situation and prevent it from occurring again will result in termination of any contract between Council and the Supplier.
- 5.4.3 Where a supplier is a deemed reporting entity under the *Modern Slavery Act 2018* they are required to provide a Modern Slavery Statement on the Australian Government's Online Register located at <https://modernslaveryregister.gov.au/>.
- 5.4.4 Council will comply with its obligations under the *Modern Slavery Act 2018* (NSW) in the publishing of any required statements within its Annual Reports being:
- steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW), and
 - action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue.

5.5 Legislative Compliance

- 5.5.1 In NSW the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2021* (the Regulation) provide the main legislative framework for local government procurement. The Act defines a clear distinction between procurement involving expenditure of an amount less than the tender threshold (currently \$250,000 and expenditure equal to or greater than the tender threshold).

- 5.5.2 Under section 55(3)(n)(i) of the Act the tender threshold is \$500,000 for a contract that:
- (a) is primarily for the purpose of response to or recovery from a declared natural disaster, and
 - (b) is entered into within 12 months after the date on which the natural disaster is declared.
- 5.5.3 Section 55(1) of the Act requires a Council to invite tenders in relation to the various classes of contract referred to in that subsection. If a Council is obliged to invite tenders for a contract involving expenditure equal to or more than the tender threshold under section 55 of the Act, the Regulation specifies the procedural requirements for the tender. The Regulation also provides Councils with a choice of tendering methods to use.
- 5.5.4 The GIPA Act requires that Council make publicly available a Register of Contracts that it has with private sector organisations with a value of \$150,000 and over.

5.6 Disclosure of Information

- 5.6.1 Information provided to the Council should be treated as commercial-in-confidence and restricted to persons concerned with the specific purchase or contract. Care is also to be taken to ensure that the information is stored in a secure location and is not inadvertently displayed or otherwise communicated to competitors during the course of evaluation.
- 5.6.2 Discussion with potential suppliers during the evaluation process should not go beyond the degree necessary to resolve doubt or clarify on 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 completed.
- 5.6.3 In addition, Council staff and Councillors must not disclose information regarding the specific details of a quotation or tendering process, including a recommendation of the evaluation or assessment panel before the outcome has been concluded.

5.7 Conflict of Interest

- 5.7.1 Any conflict of interest and/or pecuniary interest is to be disclosed and dealt with immediately as per Council's Code of Conduct.
- 5.7.2 A conflict of interest could arise when someone is influenced in the decision making process or perceived to be influenced by personal interest external to the matter. To ensure that the best value for money is obtained, purchasing and tender evaluations must be conducted with probity, efficiency, impartiality and integrity.
- 5.7.3 For further information regarding conflicts of interest refer to Council's Code of Conduct.

5.8 Financial Delegations

Financial delegations define the financial limitations within which certain staff may approve a purchase, quotation and/or contractual process. This allows Council to conduct business activities in an efficient and timely manner whilst maintaining transparency and integrity. All procurement must be undertaken within these delegations.

5.9 Policy Compliance

- 5.9.1 All those persons involved in Council's procurement processes are expected to understand this Policy carefully so as to ensure that they are intimately aware of their purchasing duties, responsibilities and the standards to which they are to conform.
- 5.9.2 Non-compliance with this Policy may result in appropriate remedial action in the form of disciplinary action and/or dismissal, being taken.

6. Accountability, Roles and Responsibilities

6.1 Authorisation – General Manager

The General Manager is responsible for the setting of annual purchasing delegations of staff through official instrument.

6.2 Policy Custodian – Director Corporate and Community Services

Council's Director Corporate and Community Services is the officer accountable for managing policy compliance, initiating the policy review process, internal auditing requirements, and has responsibility for all aspects of policy implementation, unless appropriately delegated to another officer.

6.3 Compliance – Directors/Managers and Staff

- 6.3.1 Whilst all persons involved in Council's procurement and tendering activities are deemed to be accountable for their own actions, responsibility also extends to an employee's direct Supervisor/Manager as they are charged with ensuring that employees under their control are made aware of the contents of this Policy and receive the necessary training required to partake in Council purchasing.
- 6.3.2 It is the responsibility of the Council officer procuring the goods/works/services to advise Governance of any contracts that are required to be recorded on Council's Contract Register.

6.4 Assistance - Governance Team

Council's Governance Team is responsible for the provision and maintenance of relevant and current purchasing information, systems, techniques and contacts and responsible for providing assistance with any of Council's procurement policies, management directives and/or procedures.

7. Acknowledgements

- 7.1 The following acknowledgements are made recognising organisations or documents that have provided a basis, instructive comment or templates that have been used to develop Council's Procurement and Tendering Policy:
- (a) Waverley Council Purchasing Policy;
 - (b) Lismore City Council Procurement Policy;
 - (c) Greater Taree City Council Policy on Tendering;
 - (d) City of Greater Geelong Council Procurement Policy;
 - (e) NSW Department of Premier and Cabinet, Division of Local Government Tendering Guidelines for NSW Local Government; and
 - (f) NSW Local Government Purchasing and Tender Guide.

8. Version Control and Change History

Date	Version	Approved by & resolution No	Amendment
31 Jul 2012	Original draft		Moved to new policy format – to Manex for review and feedback
5 Dec 2012	Draft		Draft for report to Council
19 Dec 2012	Draft		Council meeting for adoption
Jun 2015	Draft	Council 16 Sep 2015 Resolution 12.09/15	Review of Council's Procurement Framework
21 Feb 2018	Amended	Council 21 Feb 2018 Resolution 12.0	Inclusion of Local Preference Policy
13 Nov 2020	Amended	Council 16 Dec 2020 Resolution 5.12/20	Increase \$ threshold for quotations and tenders, update to position titles and inclusion of GIPA requirements.
15 Mar 2023	Amended	Council Resolution	Inclusion of Modern Slavery requirements and current requirements of the Local Government (General) Regulation 2021 (as amended).