

Title of Policy	SMRC 55 – Procurement and Tendering Policy		
Responsible Department	Finance	Document Register ID	250.2016.55.4
Policy Owner	Chief Financial Officer	Review Date	16/04/2023
Date of Council Meeting	16/4/2020	Resolution Number	72/20
Legislation, Australian Standards, Code of Practice	<ul style="list-style-type: none"> • Local Government Act 1993, Section 55 • Local Government (General) Regulation 2005, Part 7 – Tendering • Tendering Guidelines for NSW Local Government • Work Health & Safety Act 2011 • Work Health & Safety Regulation 2011 • Public Works and Procurement Act 2012 • Public Works and Procurement Regulation 2014 • Competition and Consumer Act 2010 • Heavy Vehicle National Law (HVNL) and Regulations and the Heavy Vehicle National Regulator (HVNR) Chain of Responsibility (CoR) 		
Aim	To provide a fair, transparent and accountable process for the procurement of goods and services and management of contracts.		

1 POLICY OBJECTIVE

- To obtain the best value for our community through active, responsible and transparent procurement methods that are appropriately funded;
- To provide direction to management and staff in managing and operating Council's procurement processes and promote compliance with the legislative framework prescribed by the Local Government Act 1993 and Local Government (General) Regulations 2005;
- To encourage support of local suppliers and local economic development within the Snowy Monaro Region, where efficient, and while achieving Council's overall 'value-for-money' objectives;
- To achieve better practice in procurement through high standards in workplace reform, probity, organisational performance, environmental management and sustainability;
- To provide policy and guidance to Council employees to allow consistency and strengthen controls over purchasing activities;
- To demonstrate accountability to community stakeholders; and
- To guide ethical behaviour in procurement.

2 RELEVANT LEGISLATION/STANDARDS/CODE OF PRACTICE

Various Acts, Regulations, Codes of Practice and Guidelines apply to Council's diverse range of purchasing activities. The Procurement and Tendering Policy is intended to supplement these instruments. Any inconsistency that may arise between the policy and a legal instrument shall be resolved in favour of the Act or Regulation.

Other applicable documents include:

- Office of Local Government (NSW) Guidelines
- ICAC Guidelines
- NSW Ombudsman Guidelines
- Audit Office of NSW Guidelines

Delegated officers shall maintain a working knowledge of Acts, Regulations, Codes of Practice and Guidelines applicable to purchasing activities they undertake.

3 POLICY STATEMENT

3.1 Scope

This policy applies to all Council Staff.

This Policy relates to all procurement activities at Council.

Council staff are required to purchase goods and services in accordance with Council's procurement procedures which are drawn from the relevant Acts, Regulations, Codes of Practice and Guidelines, for application by all sections within Council and including Committees.

The general principles that underpin this policy are as follows:

- Goods and Services shall only be purchased by staff authorised to place orders within the financial delegation approved by Council's Chief Executive Officer.
- Staff are to purchase goods from Council's preferred suppliers, where appropriate.
- Community benefits will be considered when purchasing locally as part of the evaluation of benefits of procurement decisions.
- Competitive tenders and quotations must be invited in accordance with the guidelines contained in Council's Procurement and Tendering procedures.
- All of Council's procurement activities will be conducted with integrity and in a manner that is fair to all parties, and provides opportunity for competitive local businesses that comply with relevant legislation, to supply to Council.
- All of Council's procurement activities aim to advance Council's economic, social and environmental policies.

3.2 Purchase Methods

The procurement method for obtaining goods and services will be determined according to the estimated costs of the goods or services sought. Depending upon estimated costs, the procurement method may be by verbal and/or written quotations, advertisement or by a tender process. Threshold values are indicated within the procurement and tendering procedures.

The Chief Executive Officer or Director (or their delegate) may waive the requirements to obtain written quotes or issue purchase orders providing they are satisfied that exceptional circumstances justify exemption from this requirement.

4 KEY PRINCIPLES

Persons engaged in procurement activities on behalf of Council will at all times pursue the following key procurement principles:

4.1 Open and Effective Competition

- Open and effective competition is the central operating principle to adhere to for the best outcome. Openness requires procurement actions that are visible to

Council, the community and suppliers/contractors. The probability of obtaining the best outcome is increased in a competitive environment.

- Council will establish effective competition by maximising opportunities for firms to do business with Council through the selection of procurement methods suited to market conditions. These methods will include requesting offers where possible from a number of suppliers, providing timely and adequate information and allowing ease of entry for new suppliers.
- Council will provide feedback to unsuccessful bidders, if requested.

4.2 Value for Money

- Value for money involves obtaining goods and services for Council that best meet the end user's needs at the lowest total cost with the minimum level of contractual risk.
- Value for money may not always mean accepting the lowest price. Factors to be considered as part of evaluating quotes and tenders include: fitness for purpose, fair market prices, and whole of lifecycle costs. "Whole of Lifecycle" includes: price, cost of spares, ongoing maintenance, running costs, post-delivery support, effective warranties, cost of replacement, installation costs, etc.
- All decision-makers in the procurement process must satisfy themselves that the proposed expenditure will make efficient and effective use of rate payers' funds.

4.3 Ethical Behaviour and Fair Dealing

(See also Council's Code of Conduct, and Gifts and Benefits Policies)

- Council will not use or disclose information that confers unfair advantage, financial benefit or detriment to a supplier.
- Employees have a responsibility to act honestly, impartially, and be accountable for procurement actions. Adopting an ethical and fair approach is important because the concepts of honesty, integrity, fairness and accountability in local government are core expectations of public sector agencies.
- Employees must comply with their purchasing delegation limit.
- Council employees and officials will not engage in any private business or professional activity that would, or may be seen to, create conflict between personal interest and interest of the organisation.

In pursuit of ethical behaviour and fair dealing, employees will:

- Treat potential and existing suppliers with equality and fairness;
- Not seek or receive personal gain;
- Maintain confidentiality of contract prices and other sensitive 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; and
- Be able to account for all decisions and provide feedback where required.

4.4 Accountability and Transparency

- Accountability in procurement means being able to explain and evidence what has happened. An independent third party must be able to see clearly that a process has been followed, and that the process is fair and reasonable.

- The processes by which all procurement activities are conducted will be in accordance with Council's Procurement and Tendering Policy and Procedures.
- Delegations define the limitations within which Council employees are permitted to work. They ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level.
- Employees must be able to account for all decisions and provide feedback on them. Additionally, all procurement activities will leave an audit trail for monitoring and reporting purposes.

4.5 Environmental Preference and Sustainability

- To promote and adopt procurement practices which conserve resources, suppliers may be asked if they can offer products and services which conserve resources, save energy, minimise waste and/or contain recycled products and/or are environmentally sustainable to the greatest extent practicable.
- Prospective suppliers to Council may be required to communicate their environmental practices as part of the tender specification.

4.6 Health and Safety

- Council is committed to protecting human health and safety. Council will ensure that its procurement activities protect the health and safety of its staff, customers, contractors and the general public.
- All contractors engaged by Council are required to demonstrate that they provide adequate risk management including hazard identification and risk control measures. These will be confirmed through the Contractor induction process.

4.7 Social Procurement

- Social procurement is sourcing contracts for goods and services from social enterprises, intending to make a positive social impact, for example, and job creation for a historically disadvantaged community. This means leveraging money that will already be spent on contracts by governments, private companies or non-profits to also further social good. This practice is essential for opening up social enterprise market opportunities.

4.8 Local Supplier Sourcing

- Council is committed to representing and assisting the community and its stakeholders in meeting their needs at an affordable cost. In addition, Council will aim to encourage economic development and promotion of business and industry within the local economy and in so doing, will assist in creating growth of such business or industry.
- When considering local preference, Council will actively encourage and promote business and industry within the local government area without conferring an improper advantage or breaching the *Competition and Consumer Act 2010*.

4.9 Confidentiality

All information provided between Supplier/Contractor and Council shall be treated as confidential only to the extent provided by the *Government Information (Public Access) Act 2009*.

4.10 Heavy Vehicle National Law (HVNL) Chain of Responsibility (CoR)

Council acknowledges the requirements of the Heavy Vehicle National Law (HVNL) and Regulations and the Heavy Vehicle National Regulator (HVNR) Chain of Responsibility (CoR).

RISK ASSESSMENT:

Risk levels for this policy are considered to be high because:

- The policy must adhere to the provisions of the Local Government Act 1993 and Regulations, and other relevant legislation.
- Procurement is a major element of Council expenditure.
- Systems and procedures must be documented and followed.
- Good business ethics and adherence to the Code of Conduct are crucial functions of Council.
- Legislation obligation will prevail over this policy.

DOCUMENTATION:

This policy should be read in conjunction with:

250.2016.1.3	SMRC Code of Conduct
250.2017.412.2	Statement of Business Ethics
250.2017.411.1	Fraud Prevention Procedure
250.2016.83.1	Gifts and Benefits Policy
250.2016.57.1	Procedure – Procurement Management (In Draft)
250.2016.56.1	Procedure – Contract Management (In Draft)
250.2016.58.1	Procedure – Tender Management (In Draft)
250.2016.81.2	Procedure – Credit/Purchase Card Procedure

VARIATION:

Council reserves the right to review, vary or revoke this policy. This policy will be reviewed periodically to ensure it is relevant and appropriate.