

# COUNCIL POLICY



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| <b>Policy Name</b> | 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.

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| <b>Dates</b>               | Policy or amendment approved   | 16 Sep 2015 |
|                            | Policy or amendment takes effect   | 16 Sep 2015 |
|                            | Policy is due for review (up to 4 years)   | 16 Sep 2017 |
| <b>Endorsed by</b>         | Executive Manager Business Systems and Governance  |             |
| <b>Approved by</b>         | Gunnedah Shire Council at its Ordinary Meeting of Council held 16 Sep 2015<br>Resolution number: 12.09/15  |             |
| <b>Policy Custodian</b>    | Executive Manager Business Systems and Governance  |             |
| <b>Relevant to</b>         | Gunnedah Shire Council Elected Members<br>Council staff and volunteers, suppliers and contractors<br>General public  |             |
| <b>Superseded Policies</b> | POLICY - Procurement and Tendering<br>Resolution 179 of 19 Dec 2012  |             |
| <b>Related Documents</b>   | 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 |             |
| <b>Related Legislation</b> | Local Government Act 1993<br>Local Government (General) Regulation 2005<br>Competition Policy Reform (NSW) Act 1995<br>Independent Commission Against Corruption 1988  |             |
| <b>File Number</b>         | 897485   |             |

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### 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, 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"><li>• contribution to the advancement of Council's objectives;</li><li>• non-cost factors such as fitness for purpose, quality, service and support; and</li><li>• 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.</li></ul> |
| Expression of Interest (EOI)  | Is a process used by Council to invite potential service providers/suppliers to register or express interest in tendering  |

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|                         | for a particular contract.  |
| 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 2005  |
| 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.
- 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 Legislative Compliance**

- 5.3.1 In NSW the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2005 (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 \$150,000) and expenditure equal to or greater than the tender threshold.
- 5.3.2 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.

## **5.4 Disclosure of Information**

- 5.4.1 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.
- 5.4.2 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.
- 5.4.3 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.

## **5.5 Conflict of Interest**

- 5.5.1 Any conflict of interest and/or pecuniary interest is to be disclosed and dealt with immediately as per Council's Code of Conduct.
- 5.5.2 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.
- 5.5.3 For further information regarding conflicts of interest refer to Council's Code of Conduct.

## **5.6 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.

## **5.7 Policy Compliance**

- 5.7.1 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.
- 5.7.2 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 – Executive Manager, Business Systems and Governance**

Council's Executive Manager of Business Systems and Governance 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**

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.

### **6.4 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) Leichardt Council Purchasing Policy;
- (c) Ashfield Council Purchasing Policy and Procedures;
- (d) Lismore City Council Procurement Policy;
- (e) Manly Council their Procurement Policy;
- (f) Greater Taree City Council Policy on Tendering;
- (g) City of Greater Geelong Council Procurement Policy;
- (h) Kogarah City Council Procurement Policy;
- (i) NSW Department of Premier and Cabinet, Division of Local Government Tendering Guidelines for NSW Local Government; and
- (j) NSW Local Government Purchasing and Tender Guide.

## 8. Version Control and Change History

| Date             | Version        | Approved by & resolution no. | Amendment   |
|------------------|----------------|------------------------------|---|
| 31 July 2012     | Original Draft |                              | Moved to new policy format – To Manex for review and feedback |
| 5 December 2012  | Draft          |                              | Draft for report to Council                                   |
| 19 December 2012 | Draft          |                              | Council meeting for adoption                                  |
| June 2015        | Draft          |                              | Review of Council's Procurement Framework                     |