

COUNCIL POLICY



Purchasing & Procurement Procedure

Commencement Date	27 July 2020
Council Department	Corporate Services
Contact Officer	Director-Corporate Services
Revision Required	Every 4 years

Policy Review

This policy shall be reviewed at four (4) yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.

Revision History

Version	Council Meeting Date	Resolution No.	Responsible Officer
1	18 December 2006	447/2006	General Manager
2	25 November 2013	278/2013	Director-Corporate Services
Version	Manex Meeting Date		Responsible Officer
3	3 December 2015		Director-Corporate Services
Version	Council Meeting Date	Resolution No.	Responsible Officer
4	27 July 2020	193/2020	Director-Corporate Services

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1. Aim

To provide a general overview of procurement procedures and guidelines to ensure that the procurement of goods and services is competitive, authorised in accordance with business needs as detailed in the adopted Operational Plan and within a documented framework.

2. Policy Statement

2.1.1 Considerations

When making decisions concerning purchasing and procurement each Council employee is personally responsible to ensure that each and every purchase has regard to the following principles:-

- Value for money, determined on a whole of life cycle cost basis;
- Open and fair competition with consideration to promote opportunities for local and regional suppliers;
- Accountability for decision making and reporting;
- Risk management to ensure that risks are identified and that the processes procedures, practices and resources are defined for different categories of expenditure/complexity and risk;
- Probity and transparency involving the application of the purchasing policy;
- Where appropriate, give consideration within the policy guidelines for suppliers based within the Cowra Shire.

2.1.2 Legal Requirements

The procurement of goods and services or engagement of contractors by Council is in accordance with all relevant legislation codes and directions including:

- The NSW Local Government Act 1993 and the NSW Local Government (General) Regulation 2005;
- The Local Government Act 1993 details the provisions for the requirements for tenders.
- The Competition and Consumer Act 2010.

2.1.3 Definitions

Purchase or procurement includes the obtaining of a good or service from a person (other than for services as an employee or Councillor), organisation, corporation or other entity that will result in the Council being required to make a payment to that person, organisation, corporation or other entity. It also includes the requirement to make payments for ongoing expenses.

Good or Service within the context of this policy does not include salaries (and related payments including employee salary sacrifice), donations, sponsorships, refunds of overpayments, reimbursements to employees, Councillors or volunteers, statutory charges, public utility services or payments to the Council. It includes engagement of contractors.

Delegations - Only those Council staff with Delegated Authority from the General Manager to authorise expenditure for items contained within the adopted Operational Plan, subject to the nominated monetary limitations as prescribed within the instrument of delegation, may enter into

purchasing agreements. The nominated monetary limits vary depending on each individual's level of authority and role within Council.

The limits put in place are to be strictly adhered to with the onus being on the individual employee to ensure that they do not abuse their authority level and that they refer matters beyond their authority to a higher level.

2.2 Work Health & Safety

When undertaking purchases for goods and services, Council officers need to comply with all Work Health Safety legislation and requirements.

2.3 Ethical Behaviour

Council officers have a responsibility to perform their duties and conduct themselves in a manner which ensures that they maintain a reputation for fair dealing and that the integrity of the procurement function is beyond reproach.

The following guidelines are given to assist in satisfying this responsibility:-

2.3.1 Fair and Honest Dealing

Council officers must ensure compliance with its Statement of Business Ethics and that prospective contractors and suppliers are afforded equal opportunity to tender/quote for all goods and services required. Impartiality should be maintained at all times so that no action is taken which could evoke criticism of the Council. It is important that Council officers protect the commercial interests of all existing and potential contractors or suppliers. Disclosures must not be made, other than in the course of official Council business, of information supplied by means of the tender or quotation process. Confidentiality of commercially sensitive material such as prices, discounts, rebates, profits, manufacturing and product information or other matters which come to notice in the course of official duties, must be maintained at all times in accordance with Council Policy.

2.3.2 Supplier Contact

Council encourages its officers to research the market to identify new sources of supply for goods/services required by Council and to encourage such sources to tender or quote details of their products/expertise to Council. Only by so doing, can they be sure they are obtaining the best service for Council in all areas.

Any contact must be carried out having regard to this policy and ensuring that contact is made in such a way as not to deliberately disadvantage other contractors or suppliers.

2.3.3 Conflict of Interest

Council officers are advised to avoid situations where private interests conflict with their Council procurement duties. This conflict extends to business undertakings by way of contract or purchase agreement with members of the officer's family or with a firm in which the officer has a material interest. Officers finding themselves in this situation are required to disclose the details to the General Manager. Such conflicts of interest shall be documented as a corporate record of Council.

2.3.4 Audit

The Director-Corporate Services, Director-Infrastructure and Operations and Director-Environmental Services will regularly carry out spot audits of procurement activities and determine compliance with policy and procedures.

2.3.5 Responsibilities

Instances of non-compliance with the provisions of this policy shall be reported to the General Manager, or in the case of a Public Interest Disclosure, to the Disclosures Co-Ordinator or Disclosures Officer.

Breaches of this Policy and Council's Code of Conduct will be dealt with in accordance with Council's Code of Conduct.

2.3.6 Gifts and Benefits

Gifts and benefits are often offered from commercial activities however Councillors, Council's representatives, Council staff and their families do not seek and will not accept any gift or benefit as a result of negotiating with or making a purchase of any good or service. Any supplier offering a gift or benefit associated with any Council purchase will be warned that Council may cease the business relationship if that behaviour is repeated.

2.4 Quality Assurance

Quality is an integral and core element in the provision of all goods, services and works and Council encourages contractors and suppliers to have relevant quality assurance accreditation in place for goods they supply to Council. Council is to ensure that all goods being purchased are fit for the intended purpose and fully compliant in respect of NSW and Australian legislation and relevant standards.

At the discretion of the actioning Council officer, Quality Assurance may be a mandatory condition of the procurement of a good or service.

2.5 Procurement Preference

All matters being equal, Council prefers to purchase Australian made products and services and to purchase them locally.

The Local Government Act, the Local Government (General) Regulation, the Competition and Consumer Act 2010 (Cth) and the principles of the Australian Consumer Law do not allow Council to set a blanket preference policy for local purchases that may be applied regardless of the merits of each individual tender. Council cannot include in a tender specification an across the board preference for local tenderers and providers.

There is a requirement under the Regulation that a council must accept the quotation that is "most advantageous" to it. This requirement needs to be borne in mind each time a consideration is given to a tender or quotation. In relation to the provision of equipment, accessibility to reliable and timely service is a consideration.

2.5.1 Local Preference

For all quotations and tenders for the supply of goods, material and / or services for the Cowra Shire Council to which the Local Preference Policy is determined to apply, the following price advantages will be given to local suppliers.

Amount Ranges	Price Advantage %
Up to \$5,000	10%
From \$5,001 to \$10,000	5%
From \$10,001 to \$150,000	3%
Upwards of \$150,001	0%

That is, in the process of determining the successful supplier, an amount of 10%, 5% or 3% will be nominally deducted from the local supplier price for the purpose of price comparison only.

Application of the Local Preference Policy

Before quotations and/or tenders are called, Council will determine whether the contract relates to a business activity or a service and/or regulatory activity.

Where the quotation and/or tender relates to Council's service and/or regulatory activities and all other things being equal, Council may elect to adopt this Local Preference Policy.

To assist Council in determining whether contract the subject of the tender or quotation is or may be a 'business activity' Council will consider the following:

- whether the activity involves trading or commercial activities as a going concern or is carried out in a business context;
- whether the activity is carried out regularly and systematically; and
- whether the activity is similar to activities a private trader would carry out, rather than being governmental in nature.

Examples of 'business activities' can include the operation of activities which the public are being charged a fee to access or use the activity or service to which the procurement relates (i.e., recycling centres, theatre or entertainment centres, etc.).

Where Council determines the quotation and/or tender relates to a 'business activity', the adoption of the Local Preference policy will not apply where Council further determines its application would have the effect of substantially lessening competition in a market (as that terminology is used in the Competition and Consumer Act 2010 (Cth) (**CCA**)).

Council reserves its right during the evaluation of tenders and/or quotations to determine not to apply the Local Preference Policy if it forms the view, for any reason, that its application is inconsistent with Council's obligations under the CCA.

Anti-Competition Considerations

In determining whether applying the Local Preference Policy would have the effect of substantially lessening competition in a market, Council will consider the following:

- the competitive nature of the market for the relevant contract – considering the level of competition in that market and the number of potential tenderers;
- the likely effect the Local Preference Policy will have on the market, which may involve consideration of the impact the discount/offset may have on the tendered prices;
- whether Council is a significant, or even the only, purchaser of the types of goods and services to which the tender and/or quotation relates.

To the extent that Council determines the application of the Local Preference Policy would have the effect of substantially lessening competition, the policy will not apply.

Disclosure

Where the Local Preference Policy is applied to a quotation and/or tender, this will be disclosed in:

- the request for tender documents, including tendering advertisements, the conditions of tender and evaluation criteria; and
- reports to Council - which must also disclose any additional costs to the Council if it were to accept a tender and/or quotation as a result of the policy's implementation.

Tender documents are to be drafted to reflect that Council reserves its right not to apply the Local Preference Policy if it forms the view that its application is inconsistent with Council's obligations under the CCA.

Local suppliers

A tenderer will be a local supplier for the purposes of the Local Preference Policy if it is a business that has its principal place of business within the Cowra Shire Local Government Area (**LGA**). Decisions about a tenderer's status as a local supplier will be made by the tender evaluation panel, whose decision is final and not subject to challenge.

2.6 Benefits of the Procurement System

Council's Officers are obligated to ensure that their activities involving procurement adhere to the following principles.

2.6.1 Open and Effective Competition

The objective of this principle is to maximise the prospect of obtaining the most advantageous outcome for Council and that contractors or suppliers wishing to do business with Council are given a reasonable opportunity to do so.

Open and Effective Competition will be achieved by:-

- Procurement procedures and processes being visible to Council, contractors, suppliers and the public;
- Council officers accepting their responsibilities and accountabilities;

- Contractors and suppliers having a real opportunity to do business with Council;
- Invitations to contractors or suppliers being specified to encourage competition among contractors and suppliers with a view to value for money.

2.6.2 Value for Money

Council bases procurement decisions on the principle of 'value of money' over the life cycle of products rather than the 'lowest cost' and gives preference to the purchase of environmentally friendly products where they are performance competitive and cost competitive with the existing product purchase.

Officers making decisions on the procurement of goods and services must evaluate the following issues in determining the appropriate contractor or supplier of goods and services.

Officers are to ensure the following:-

- Contractors or suppliers have equal opportunity to clarify what is being sought;
- All documentation to suppliers is clear and concise and that it does not contain inconsistencies or ambiguities;
- The performance of prospective contractors or suppliers is investigated to ensure that they can provide service that is value for money;
- Communicating with contractors/suppliers on their performance and encouraging improvement in performance.

2.6.3 Ethical Behaviour and Fair Dealing

Council officers are to ensure that they act with integrity and in a way that shows a proper concern for the public interest.

These actions can be achieved by:-

- Promoting a high standard of integrity in procurement activities;
- Establishing criteria for awarding quotations/tenders before awarding the purchase;
- Ensuring that the confidentiality of all information is maintained at all times.

Council's Procurement Procedure is to be made known to current or prospective contractors and suppliers at all times in dealing with such companies or persons.

2.7 Tender Procedures

Purchases as follows are to be treated as tenders under Local Government Act. Invoices relating to Tenders are to be submitted and stamped showing the Electronic Document Management System (EDMS) Reference number and do not require referral to the General Manager or Director for treatment as an exception.

For the purposes of determining whether a purchase should be treated as a tender, the following definition applies:-

A tender should be called where the procurement of a service stream or supply of good/s or service/s is one in which either single or multiple purchases from the same supplier is expected to exceed \$250,000 in value (GST inclusive), or where over an extended period of two or more years where the purchase or delivery value exceeds \$125,000 in each annual period. Tenders are to be submitted to Council for adoption.

2.8 Emergency Ordering Procedures

In an emergency it is recognised that work or a purchase may need to be initiated as soon as possible. Such purchases are to be limited to:-

- Emergency works – as outlined in Council's Emergency Management Plan and Business Continuity Plan;
- Breakdown at water or sewerage treatment plants or other Council infrastructure, which exposes the Council and its staff and the public to an environmental, workplace or public safety risk;
- Breakdown of major plant with no suitable temporary replacement available.

Emergency purchases must not be used for convenience or due to lack of planning.

2.9 Recognition of Special Circumstances

- There are some special circumstances that are recognised departures from the procedures outlined herein, however, these are to be referred to the appropriate Director or General Manager;

eg RMS Work – the RMS often demands a quick response from Council in respect of available funding. Suppliers/Contractors may not be readily available and in such circumstances, a variation to the Purchasing Procedure may be referred to the Director or General Manager as required;

- Invoices relating to an approved continuing service/contract/tender such as Telstra, Origin, a current tender etc;
- Single suppliers of service/parts etc;
- Where a consultant or service is engaged, the initial engagement should be for a defined project. Where the service being provided requires extension due to changes in the project and exceeds 20% more than the original accepted quotation the circumstances should be brought to the attention of the appropriate Director for approval as an exemption, and noted in DataWorks. The DataWorks Reference Number is to be quoted on the subsequent invoice as noted in 2.11 below.

2.10 Procedure to initiate a purchase and approve invoices

1. An approved purchase is assessed to be at an estimated value and will be subject to the required number of quotations as per the Quotation Requirements (Attachment A);

2. On the basis of Quotations received and considerations relating to quality and service the Quotation Assessment form is completed and signed as approved. If an exemption for the required number of quotes is required it is to be submitted to the appropriate Director or General Manager for approval;
3. Following approval, the order is placed with the supplier and the Quotation Assessment form and quotations are entered into Council's Electronic Document Management System (CM9). The CM9 subject is "Quotations" with two options <\$100,000 or >\$100,000. The Quotation Assessment form should be the Master Document bound with the quotations;
4. On receipt of the invoice the Invoice Approval Stamp is to be applied and the CM9 Reference Number noted;
5. The stamped invoice with CM9 Reference is submitted to Accounts payable for processing.

Attachment A - Quotation Requirements

Cowra Shire Council
Private Bag 342
Cowra NSW 2794

Phone: 02 6340 2000
Fax: 02 6340 2011
council@cowra.nsw.gov.au
www.cowracouncil.com.au

Procurement Method

For purchasing of goods and services other than the engagement of consultants, the following minimum requirements will apply and the details are to be included on the attached "Quote Assessment Summary" form:

Invitation Thresholds GST Inclusive	Requirements
\$0 - \$5,000	Officers with sufficient financial delegations are granted authority to purchase goods or services up to a value of \$5,000. Officers are required to observe the principles described in Council's Procurement Policy. Petty cash purchases generally have a maximum limit of \$100 unless otherwise authorised.
\$5,001 - \$50,000	At least two written quotations are required from prospective suppliers. The methodology for selecting the successful supplier is to be recorded and retained as a corporate record.
\$50,001 - \$250,000	Three written quotations are required and are to be assessed in a formal bid process requiring at least one independent Council officer together with relevant departmental officer to sign off on recommendation.
Over \$250,000	Formal tenders are to be invited in accordance with Section 55 of the Local Government Act (1993) and Part 7 of the Local Government (General) Regulation (2005). Such tenders shall be submitted to Council for consideration together with a recommendation/s from the Council officer.
<p>Where extenuating circumstances indicate that the above procedures cannot be followed, formal approval for any purchase is required as follows:-</p> <ul style="list-style-type: none"> • \$50,000 and under by relevant Director or • Over \$50,000 and under \$250,000 by General Manager. 	

Form – Quotation Assessment Summary

Cowra Shire Council
Private Bag 342
Cowra NSW 2794

Phone: 02 6340 2000
Fax: 02 6340 2011
council@cowra.nsw.gov.au
www.cowracouncil.com.au

Quotation Assessment Summary

This form is to be used to record details of quotes received and to recommend acceptance or otherwise of a preferred supplier and is to be attached together with required quotations or notations to the Invoice and Order.

1. Project or Expenditure area

2. Description of quotation request

3. Purchasing policy requirements

In accordance with Council's purchasing policy, how many quotes are required?

Threshold (\$) GST inclusive	Tick	Requirement
\$ 0 - 5,000	<input type="checkbox"/>	Discretion within delegation
\$ 5,001 – 50,000	<input type="checkbox"/>	Minimum two written
\$ 50,001 – 250,000	<input type="checkbox"/>	Three written
Over \$ 250,000	<input type="checkbox"/>	TENDER

4. Written/Verbal Quotes received (if verbal include notation below. If written attach copies of quotes)

Company	\$	Description

5. Recommendation

Assessment (why was the product or service selected?)

It is recommended to accept the quote from:	
Company:	Amount:

6. Assessment and recommendation completed by:

<input type="checkbox"/> Council's Purchasing and Procurement Procedure has been complied with in seeking and assessing the quotes for this project. If yes go to 7.
<input type="checkbox"/> I have been unable to obtain the necessary number of quotations for the reasons outlined below: <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div>
<div style="display: flex; justify-content: space-between;"> <div> Signed: _____ Name: _____ </div> <div> Date: _____ </div> </div>
I do / do not accept the reasons for not obtaining the required number of quotations for the following reasons: <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div> <div style="border-bottom: 1px dashed black; height: 10px; margin-bottom: 2px;"></div>
<div style="display: flex; justify-content: space-between;"> <div> Signed: _____ Name: _____ </div> <div> Date: _____ </div> </div>

7. Approval

Approval is required from an officer with sufficient delegated purchasing authority to authorise final payment of recommended amount in 5. Above.

Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, provide reason:
Signed: _____ Name: _____	Date: _____

Administration	GL# to be used:	
Purchase order #:	Date supplier notified:	