

10.9. Amended Procurement Policy

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ENDORSED BY: Margaret Palmer, Director Corporate Services

ATTACHMENTS:

1. Amended Procurement Policy [10.9.1 - 6 pages]

PURPOSE:

This report recommends minor amendments to Council's Procurement Policy.

EXECUTIVE SUMMARY:

Council's Procurement Policy was first adopted by Council in August 2004 and was most recently readopted by Council on 22 June 2020.

The Procurement Policy is periodically reviewed, amendments to the policy are proposed to improve controls in relation to non-contract thresholds. The changes are summarised below in Tables 1 and 2 below, with ~~strikethrough~~ indicating deletion and *red font/italics* indicating addition.

| Value including GST | Procurement process | Sign-off authority |
|---|---|---|
| \$50,001 - \$200,000 <i>\$149,999.99</i> | 3 quotes minimum | Supervisor/Manager/Divisional Director |
| <i>\$150,000</i> \$200,001 - \$249,999.99 | 3 quotes minimum plus Formal Evaluation Plan | Divisional Director or General Manager and Procurement Panel |

Table 1 Non-Contract Thresholds

| | | |
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| \$50,001 - \$150,000 <i>\$149,999.99</i> | 2 quotes minimum | Supervisor/Manager |
| \$150,001 - \$250,000 | 3 quotes minimum Formal Evaluation Plan | Manager/Divisional Director <i>and Procurement Panel</i> |

Table 2 Council, Approved Government Panel Contracts & Pre-Qualification Schemes

These amendments are considered minor as they do not impact external suppliers and therefore public exhibition is not required.

FINANCIAL IMPLICATIONS:

The financial implications of the policy amendments are outlined in this report.

RECOMMENDATION:

- 1. THAT** Council readopt the Procurement Policy inclusive of the proposed minor amendments
- 2. THAT** Council endorse that public exhibition is not required.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.1 Lead North Sydney's strategic direction

5.2 Strong civic leadership and customer focussed services

BACKGROUND

Council's Procurement Policy was first adopted to Council in August 2004 and readopted by Council at its meeting of 22 June 2020.

Council policies were reviewed in 2022, and Council considered changes to policies for Directions 1 to 4 of the Community Strategic Plan. Councillors were advised through the Councillor Bulletin of 30 November 2022 that Direction 5 policies would be reported to Council as individual policies rather than as a group. Parallel to this, work is being undertaken regarding the classification, review, and content of policies, including consultation with Councillors.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

The Procurement Policy is periodically reviewed, amendments to the policy are proposed to increase controls in relation to Non-Contract Thresholds. The changes are summarised below in Tables 1 and 2 below, with ~~strikethrough~~ indicating deletion and *red font/italics* indicating addition.

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Following readoption, the attached policy will be finalised inclusive of renumbering, the version control and footers updated, with the final version to be registered in Council's records system and added to Council's website.



PROCUREMENT POLICY

D5-42

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Policy Owner: Director Corporate Services

Category: Operational

Direction: 5. Our Civic Leadership

1. STATEMENT OF INTENT

This Policy is intended to contribute to the achievement of Council's objectives by ensuring procurement of goods and services at best value for money through an ethical and efficient process that complies with relevant statute, regulation and best practice.

2. ELIGIBILITY

This Policy applies to all councillors, staff and agents of Council, and to any other entity involved in Council procurement.

3. DEFINITIONS

- a) Procurement - the purchasing of goods and services. For the purposes of the Policy, procurement also refers to sale or disposal, including of land, and to any contract for procurement.
- b) Delegate - a person with order approval financial delegation. A person may approve the market testing process of obtaining quotations where they have the financial delegation.
- c) Approved Government Panel Contract/Pre-Qualification Scheme - a Contract or Pre-Qualification Scheme conducted by an entity prescribed by the regulations (e.g. Local Government Procurement, NSW Procurement Board, Procurement Australia etc.) and designated for use by a New South Wales local council.

4. PRINCIPLES

- a) **Best value for money** - must be obtained through proper evaluation of the merits and demerits of an offer and is not necessarily indicated by lowest price. Procurement must promote the public interest through competition by fair and reasonable market testing.
- b) **Ethical behaviour** - expectations are set out in Council's *Code(s) of Conduct*.

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Procurement must be conducted honestly, and in keeping with the expectations of the community. It must not entail any act or omission that would not seem fair and reasonable to a fair and reasonable person. Procurement must be for Council business only and must exclude any purchases or benefits of a private nature.

- c) **Fairness** - means equality of opportunity through impartial decision making and precludes the improper gain or loss of any advantage. Fairness does not imply universal satisfaction or forgoing the reasonable pursuit of legitimate self-interest. Whether in writing or verbally, information provided to proponents must be identical, and offers received must be evaluated on identical criteria.
- d) **Goodwill** - must be encouraged in business relationships through open and effective communication, respect and trust, and amicable dispute resolution. Procurement must not be initiated without a firm intention and capacity to proceed with a contract.
- e) **Transparency** - of process should be open to scrutiny. Knowledge of anything that may materially affect the outcome of the procurement process must be properly disclosed in advance of decision making, including any potential or actual conflict of interest.
- f) **Confidential** - information must not be shared or made public without the written consent of the owner of that information, without the written consent of the parties to a legal agreement governing the disclosure of that information, or where, on balance, to do so would harm the public interest.
- g) **Efficiency** - through procurement planning should reflect the scale and complexity, be holistic, ensure fitness for purpose, and be completed prior to the call for offers. It must be timely, with due consideration for deadlines for meeting Council's objectives and obligations, and particularly with respect to any deadlines applicable under statute, regulation and policy. Council will use well-designed delegations of authority to empower its officers to make procurement decisions.

5. QUOTATION THRESHOLDS

Non-Contract Quotation Thresholds

These quotation requirements are to be used when buying goods and services that are not on a contract or pre-qualification scheme.

Table 1: Non-contract purchases (known as General Purchases)

| Value including GST | Procurement process | Sign-off authority |
|---|---|---|
| Up to \$4,000 | Direct negotiation | Delegate |
| \$4,001 - \$15,000 | 1 quote minimum | Delegate |
| \$15,001 - \$50,000 | 2 quotes minimum | Delegate/Supervisor |
| \$50,001 - \$200,000 \$149,999.99 | 3 quotes minimum | Supervisor/Manager/Divisional Director |
| \$150,000 \$200,001 - \$249,999 | 3 quotes minimum plus Formal Evaluation Plan | Divisional Director or General Manager and Procurement Panel |
| \$150,000 - \$1,000,000 (Refer details below) Section 55 (3)(n)(ii), | Open tender (Contracts where the service is being provided by employees of Council) | Procurement Panel and Endorsement by General Manager or Council |
| \$250,000 - \$1,000,000 | Open tender | Procurement Panel and Endorsement by General Manager or Council |
| <i>Local Government Act 1993, Division 1 Tendering, Section 55 (3) (n) (ii) - For contracts involving the provision of services where those services are, at the time of entering a contract, being provided by employees of a Council a Tender is required where the contract amount is \$150,000 and above (including GST)</i> | | |
| \$1,000,001 and above | Open tender | Procurement Panel and Endorsement by Council |

\$150,000 - \$1,000,000 Open Tender General Manager or Council
Above \$1,000,000 Open Tender Council

Non-Contract - Exemptions to quotation process

- For amounts under \$250,000 (incl. GST) exemption or a lower quotation minimum process may be granted where there are extenuating circumstances. Signoff must be completed by the relevant sign-off authority and cannot be the person that has completed the procurement process.
- Amounts over ~~\$200,000~~ **\$150,000** (incl. GST) must be referred to the Procurement Panel for review.
- Amounts over \$250,000 (incl. GST) maybe exempt from open tender subject to the provisions of the *Local Government Act 1993, Division 1 Tendering, Section 55.*

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Council, Approved Government Panel Contracts and Pre-Qualification Schemes

Where goods and services are purchased from:

- Council and Approved Government Panel Contracts or Pre-Qualification schemes developed in accordance with the *Local Government Act 1993*, Division 1 Tendering, Section 55.

Table 2: Council, Approved Government Panel Contracts & Pre-Qualification Schemes

| Value including GST | Procurement process From the Contract / Scheme | Sign-off authority |
|---|---|--|
| Up to \$50,000 | Direct negotiation | Delegate/Supervisor |
| \$50,001 - \$150,000 \$149,999.99 | 2 quotes minimum | Supervisor/Manager |
| \$150,001 0 - \$250,000 | 3 quotes minimum Formal Evaluation Plan | Manager/Divisional Director <i>and Procurement Panel</i> |
| \$250,001 - \$500,000 | 5 quotes minimum or all suppliers invited to quote from the relevant category of the panel/scheme. Formal request for quotation and evaluation plan and evaluation plan | Divisional Director, Procurement Panel and General Manager |
| \$500,001 - \$1,000,000 | Quotes requested from all suppliers from the relevant category of the panel/scheme or conduct a tender. Formal request for quotation and evaluation plan | Divisional Director, Procurement Panel and General Manager |
| \$1,000,001 and above | Open tender | Council |

Council, Approved Government Panel Contracts and Pre-Qualification Schemes - Exemptions to quotation process

- For amounts under \$250,000 (GST incl.) exemption or a lower quotation minimum process may be granted where there are extenuating circumstances. Signoff must be completed by the relevant sign-off authority and cannot be the person that has completed the procurement process.
- Amounts over \$250,000 (incl. GST) must be referred to the Procurement Panel for review.
- Amounts over \$1,000,000 (incl. GST) maybe exempt from open tender subject to the provisions of the *Local Government Act 1993*, Division 1 Tendering, Section 55.

Re-adopted by Council [insert date]

6. COMMUNITY STRATEGIC PLAN

In keeping with the objectives of the *Community Strategic Plan*, procurement must be sustainable and operate within the Quadruple Bottom Line (QBL) Framework for consideration of economic, environmental, governance and societal factors.

Procurement should conform to Council's Enterprise Risk Management Framework, including suitable insurance.

In addition to statute and regulation, recordkeeping is governed by Council's *Records Management Strategy* and related policy and procedures. Records of decision making, actions and communication must be full, accurate and timely, and open to challenge on a fair and reasonable basis.

7. RESPONSIBILITY/ACCOUNTABILITY

All staff are required to comply with the provisions of this policy, *Procurement Manual* and related guidelines.

All Managers and Directors are responsible for supporting staff to apply this policy and related guidelines/procedures. Directors are also responsible for ensuring compliance with the policy and related guidelines/procedures.

8. ENTERPRISE RISK MANAGEMENT

Risk assessments for procurement processes are to be aligned to Council's Enterprise Risk Management Framework with key operational risks recorded in the risk register with actions for mitigation identified, monitored and measured.

9. COMPLAINTS HANDLING

Complaints relating to procurement matters will be dealt with under Council's *Complaints Handling Policy*. Allegations by suppliers or the general public of corrupt conduct must be put in writing to the General Manager or Public Officer. Allegations by staff must be made in keeping with Public Interest Disclosure (PID) legislation and Council's *Internal Reporting Policy*.

10. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Code of Conduct - Councillors and Staff
- Code of Meeting Practice
- Complaints Handling Policy

PROCUREMENT POLICY

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- Community Strategic Plan
- Enterprise Risk Management Policy
- Internal Reporting Policy
- Mediation Policy
- Organisational Sustainability Policy
- Procurement Panel Charter
- Procurement Manual
- Purchasing Card Policy (staff policy)
- Records Management Strategy
- Statement of Business Ethics

The Policy should be read in conjunction with the following documents/legislation:

- Local Government Act 1993
- Local Government (General) Regulation 2021 and any subsequent amendments
- Work Health and Safety Act 2011 (NSW)
- Government Information (Public Access) (GIPA) Act 2009

| Version | Date Approved | Approved by | Resolution No. | Review Date |
|---------|-------------------|-------------|-------------------|-------------|
| 1 | 2 August 2004 | Council | 794 | 2008/09 |
| 2 | 14 March 2005 | Council | 219 | 2008/09 |
| 3 | 10 April 2006 | Council | 227 | 2008/09 |
| 4 | 16 February 2009 | Council | 61 | 2012/13 |
| 5 | 26 September 2011 | Council | 664 | 2012/13 |
| 6 | 18 February 2013 | Council | 61 | 2016/17 |
| 7 | 19 November 2015 | Council | 458 | 2016/17 |
| 8 | 24 September 2018 | Council | 345 | 2020/21 |
| 9 | 22 June 2020 | Council | 42 | 2021/22 |
| 10 | [insert date] | Council | [insert min. no.] | 2024/25 |

Re-adopted by Council [insert date]