



LACHLAN SHIRE COUNCIL

PROCUREMENT POLICY 2024

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| Further Information: ☎ 02 6895 1900 ✉ Email: council@lachlan.nsw.gov.au | | | | | | |
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1. BACKGROUND

The purpose of this policy is to provide the principles under which Lachlan Shire Council (Council) makes its procurement decisions and conducts its procurement activities.

2. SCOPE

This policy applies to all Staff, Councillors, Consultants, Contractors, and anyone involved in Council procurement activities at any level.

This policy applies to all of Council's procurement activities as they relate to the acquisition and use of goods and services, including (but not limited to):

- Tendering;
- Contracts and payments;
- Quotations;
- Goods or services procured by third parties, such as contractors, acting as representatives of Council;
- Expressions of Interest for goods or services;
- Council credit cards;
- Fuel cards;
- Charging purchases to an account that Council may hold with a supplier;
- Purchase orders;
- Petty Cash

3. OBJECTIVE

The objectives of the Procurement Policy are to:

- Ensure the procurement process is auditable. The process is open, fair, transparent, consistent, and in accordance with Council's Code of Conduct and all relevant Council policies and procedures;
- Comply with the Local Government Act 1993 (NSW), Local Government (General) Regulation 2021 (NSW), and other relevant legislative requirements;
- Comply with the requirements of the *Modern Slavery Act 2018 (NSW)* and the *Guidance on Reasonable Steps* issued by the Anti-Slavery Commissioner, including associated reporting, model tender clauses and model contract clauses;
- Ensure competitive procurement of goods, works and services to maximise community benefit;
- Ensure value for money is delivered. Funds are spent effectively and economically, taking into account price and non-price factors (such as after sales service, warranty, safety, repair costs, spare parts, environmentally sustainable);
- Ensure appropriate risk management, including segregation of duties in the requisitioning, approval and payment functions.

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4. DEFINITIONS

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|--------------------------------|---|
| Contract: | The written agreement between the Council (as the purchaser) and the service / goods provider. |
| Expression of Interest: | The process of seeking non-binding information from proponents capable of providing specified goods/services which may include indicative pricing. |
| Modern Slavery: | As defined under the <i>Modern Slavery Act 2018</i> including obligations of Council under the Act |
| Procurement: | The acquisition of works, goods and services. Includes the evaluation of suppliers, preparation of purchase orders, receipt of goods / services and approval of payment. |
| Purchase Order: | The authority to the supplier to supply and invoice items at the prices agreed via the quotation process. The purchase order is a legal and binding contractual agreement on all parties. |
| Quotation: | A formal statement submitted by the proponent setting out a fixed cost or schedule of rates for the specified procurement of goods and/or services. |
| Tender: | Written submissions for procurement valued at \$250,000 and over, invited and administered in accordance with the Local Government Act 1993 and associated Regulations. |
| Tender Panel: | A panel comprising a minimum of three (3) appropriately experienced and responsible officers with the expertise to assess and recommend the acceptance or rejection of tenders valued at \$250,000 and over |

5. POLICY STATEMENT

Council is committed to procurement practices that achieve the best possible value for money, and employ highly transparent, accountable and ethically sound processes. Council will conduct evaluations of the whole-of-life cost of purchases, and ensure that best practice procurement processes are communicated, understood and adhered to by all parties.

Council will procure goods and services in a financially, environmentally and socially sustainable and acceptable manner.

Council will discontinue all dealings with suppliers it reasonably suspects of having engaged in unethical conduct.

Where appropriate Council will also take further action against these suppliers, including legal action and, reporting suspected fraud or corruption to the Police and the Independent Commission against Corruption.

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6. POLICY IN DETAIL

6.1 Responsible financial management

The principle of responsible financial management is to be applied to all procurement activities. Council funds are to be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the cost of the procurement process without compromising any of the procurement principles set out in this policy.

6.2 Procurement activities – Authorisations

All procurement activities by employees of Council, require prior authorisation by officers with approved financial delegations, only up to their delegated amount, and where the procurement is provided for in Council’s budget

The General Manager may incur financial expenditure on behalf of Council within authorised delegations, where expenditure has been provided for in Council’s approved budget, or genuine emergency or hardship provisions.

All delegations are to be recorded in a Register of Delegation of Authority.

6.3 Value for Money

Procurement activities are to be carried out on the basis of delivering value for money. This means minimising the total cost of ownership over the lifetime of the good or service consistent with acceptable quality, reliability, safety and delivery considerations.

Contracts will be sized and packaged with a view to maximising the economies available through the quotation/tender process and ensuring a competitive process.

Council is committed to ensuring funds are spent effectively and economically by taking into account price and non-price factors. Non-price factors may include (but are not limited to):

- Quality
- Reliability and reputation of supplier
- Availability and delivery time
- After sales service
- Warranty
- Safety
- Trading terms and discounts
- Whole of life cost of the goods and services
- Sustainability principles

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6.4 Ethical, Environmental and Sustainable

Procurement decisions should incorporate principles of ethical, environmental, and sustainable sourcing, where feasible, including:

- The use of locally sourced services and products where practical
- Eliminating modern slavery in the supply chain
- Reuse, renewable or recoverable resources
- Minimising packaging
- Minimising harm to the environment
- Minimising waste

6.5 Modern Slavery

In accordance with the *Modern Slavery Act 2018*, and the *Guidance on Reasonable Steps* issued by the Anti-Slavery Commissioner, Council will

- Take reasonable steps to ensure that the goods and services procured are not the product of modern slavery
- Provide information as required in its Annual Report
- Include model GRS clauses in its tendering and contract management activities

6.6 Conflict of Interest and Business Ethics

All procurement activities must manage any real, potential or perceived conflict of interest under this policy in accordance with Council's related policies including Code of Conduct, Conflict of Interest Policy, Statement of Business Ethics Policy, Gifts Benefits and Bribes Policy, Fraud and Corruption Control Policy, Public Interest Disclosure Policy, and legislative requirements.

6.7 Procurement Requirements

Where the total cost of a contract over the life of the contract is likely to exceed \$250,000 inclusive of GST, a tender is required.

In emergency situations, the General Manager has the discretion to vary the process in writing where required (up to \$250,000).

All purchases may be subject to Council's "Local Preference Purchasing Policy".

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Table 1 – Procurement Requirements (All amounts are inclusive of GST)

Invoice or order splitting to avoid quoting or tendering requirements is not permitted under

Legislation

| Purchase Value | Process | Quotation Type |
|---|---|---|
| \$0 - \$500 | Work Order & staff member’s full name to be provided to supplier and noted on invoice. Purchase Orders are encouraged but not necessary. | Not needed |
| \$501 - \$4,999 | Purchase Order | One (1) written or verbal quote. Verbal quote requires a legible diary |
| \$5,000 - \$49,999 | Purchase Order | Invite two (2) written quotes |
| \$50,000 - \$249,999 (Refer also ** Note 2) | Purchase Order – attach 3 x Formal Quotes with specification | Invite three (3) written quotes. Formal tender for works/services provided by Council staff \$150,000 and above (**Note 2 below) |
| \$250,000 and above (Refer also *Note 1 and ** Note 2) | Prescribed agency purchases or Tender in accordance <i>Local Government Act 1993 (NSW) and Part 7 Local Government (General) Regulations 2021</i> | Formal Tender Process (unless approved exemption) Prescribed agency purchase or Tender in accordance <i>Local Government Act 1993(NSW) and Part 7 Local Government (General) Regulations 2021</i> |

*** Note 1:** Contracts entered into for the purpose of responding to /recovering from a declared natural disaster within 12 months of the declaration have a tender threshold of \$500,000 including. GST. Refer to Office of Local Government Circular 20-03 Amendments to the *Local Government (General) Regulation 2021* to increase the tendering exemption threshold for contracts for bushfire recovery and operations, dated 24 January 2020.

****Note 2:** Request for Tender is required for contracts \$150,000 and above involving the provision of Services where those Services are, at the time of entering the contract, performed by Council officials.

Quotes are not required if you engage one of the suppliers who are on the Local Government Procurement (LGP) contract panel BUT you must:

- Issue a correctly authorised Purchase Order
- quote the LGP contract number on the Purchase Order

Quotes are not required when there is genuinely one supplier but you must:

- Issue a correctly authorised Purchase Order
- quote the “sole supplier” on the Purchase Order

6.8 Quotations

The assessment of quotations will be objective, consistent, documented, transparent and undertaken in accordance with Council’s Procurement Procedures.

Council will only accept one conforming quotation from each supplier. Suppliers will not be given an opportunity to re-quote for the supply of goods and services unless the scope of work changes.

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Quotations for alternate options may be accepted for consideration, only if a conforming quotation has been provided. Council will not be bound to accept or consider alternate quotations. If a conforming quotation is not accepted, to ensure an equitable and transparent process Council may decide to readvertise for quotations incorporating alternate option(s), if it is considered that more than one supplier is available.

6.9 Tendering

All Tenders will be conducted in accordance with Section 55 of the *Local Government Act 1993 (NSW)*, Local Government (General) Regulation 2021 (NSW), the NSW Office of Local Government Tendering Guidelines, and the Modern Slavery Act 2018 requirements.

Whilst a formal tendering process is not required for purchases under \$250,000, a formal tendering process can be utilised for any purchase under the threshold. This is advisable in the following situations:

- The purchasing amount is close to \$250,000
- The purchasing amount is likely to exceed \$250,000 over the life of the contract.
- The goods or services are of significant public interest
- The purchase may be considered to be controversial or contentious
- The procurement process is complex
- The expected price of procurement is unknown
- Contracts \$150,000 and above involving the provision of Services where those Services are, at the time of entering the contract, performed by Council officials

6.10 Prescribed Agencies

Section 55 of the *Local Government Act 1993 (NSW)* provides Councils with an exemption from tendering requirements where such items are available under contract by prescribed authorities. Prescribed agencies include Local Government Procurement, Regional Procurement, and Procurement Australia Pty Ltd.

Prescribed agencies seek to undertake group tenders on behalf of NSW Councils to obtain competitive contracts from time to time. Council may utilise these supply arrangements where appropriate.

When using Prescribed Agencies the agency contract number is to be quoted on the purchase order so that the supplier is aware that the procurement is under this arrangement.

6.11 Exemptions

Exemptions from following Procurement requirements under this policy include the following:

- **To assist Council in Natural Disaster Response.** Section 170A of the *Local Government (General) Regulation 2021* provides Council with an exemption from tendering requirements for a contract of up to \$500,000, if the contract is primarily for the purpose of response to or recovery from a declared natural disaster, and is entered into within 12 months after the date on which the natural disaster is declared.
- Ongoing invoices for contracted periods e.g. electricity and telephone accounts, insurance premium and excess payments, rent payments;
- Subscription and memberships – although review of the necessity of these items must occur prior to renewal;
- Legal advice and services

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- Reimbursements for approved expenditures
- Other exemptions permitted under Section 55 of the *Local Government Act 1993* (NSW)

7. FURTHER INFORMATION

Further information about this policy can be obtained by:

- Contacting the Governance and Risk Officer
- Contacting the Director Corporate and Community Services
- Contacting the Office of Local Government
- Contacting the NSW Independent Commission Against Corruption (ICAC)

8. RELATED DOCUMENTS

Related Council policies include:

- *Code of Conduct for Council Staff*
- *Code of Conduct for Councillors*
- *Conflict of Interest Policy*
- *Gifts, Benefits and Bribes Policy*
- *Fraud and Corruption Policy*
- *Credit Card Policy*
- *Disposal of Assets Policy*
- *Local Preference Policy*
- *Statement of Business Ethics Policy*
- *Public Interest Disclosures Policy*
- *Terms and Conditions of Business*

Related Legislation includes:

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2021* (NSW)
- *Modern Slavery Act 2018* (NSW)
- *Guidance on Reasonable Steps* issued by the Anti-Slavery Commissioner
- *Government Information (Public Access) Act 2009* (NSW)
- *Competition and Consumer Act 2010*
- *Tendering Guidelines for NSW Local Government 2009*, issued by Department of Premier and Cabinet (Local Government).

9. RIGHT TO VARY OR TERMINATE

Council reserves the right to vary or terminate this policy at any time.

Nothing in this policy limits any applicable legislation.

Greg Tory

GENERAL MANAGER

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