

POLICY NAME

Procurement Policy

DATE ADOPTED

11 February 2019

ECM NUMBER

N/A

REVIEW DATE

March 2021

RELATED DOCUMENTS

Penrith City Procurement Standards

POLICY NUMBER

FS 003

COUNCIL MINUTE NUMBER

PRC 5

POLICY TYPE

Council

RESPONSIBLE DEPARTMENT

Financial Services

1. Purpose

Penrith City Council (Council) is publicly accountable for the use of its funds and this policy aims to ensure that Council's Procurement and Purchasing processes operate effectively and efficiently in the pursuit of value for money whilst having regard for that responsibility of public accountability, transparency and probity.

Council recognises that developing a Procurement Policy and adopting appropriate best practice procurement principles, processes and procedures for all goods, services and developments by Council, also facilitates achievement of Council objectives and Councils long term strategies.

This Policy details the structure guiding Council's procurement activities and provides frameworks in which Council will make procurement decisions that are appropriately documented, transparent, accountable and ethically sound. In addition, the Policy seeks to mitigate risk, and provide protection from complaints, legal action and liabilities by supporting the fair and equitable treatment of all potential suppliers to the Council.

This Policy helps Council establish a culture of best practice and continuous improvement in all areas of procurement. It also encourages Council to monitor and evaluate procurement performance to ensure the efficient use of resources and compliance with relevant legislative obligations. This policy framework consists of two components:

- Policy document; and
- Procurement Standards document.

To be compliant with the Policy framework, compliance with both the Policy document and the Procurement Standards is required.

Nothing in this Policy document or the associated Procurement Standards is intended to conflict with the legislative requirements applicable to Council.

2. Legislative Requirements

The principal legislation in New South Wales governing the establishment and operation (including Procurement) of councils is the Local Government Act 1993.

This Act is supported by the Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government published October 2009 by the NSW Department of Premier and Cabinet, Division of Local Government.

Additional legislation that is applicable to this policy includes:

- Government Information (Public Access) Act 2009.
- Work Health and Safety Act 2011 (NSW).
- Government Information (Public Access) Act 2009 (*GIPA Act*)

3. Policy Statement

3.1 Overview

Council is committed to providing guidance to Council staff for the procurement of goods and services and to ensuring legislative compliance, best value for money, transparency in the tendering process, fair and ethical dealings with tenderers, maintaining probity and ensuring responsible financial management is applied to all procurement activities.

In addition to this policy, the Procurement Standards provide clear procedures and direction on how to undertake procurement activities within the Council, in accordance with best practice standards.

To comply with this policy framework, procurement activities within the Council must comply with this Policy and the Procurement Standards.

3.2 Scope

This Policy applies to all members of Council staff, including Councillors and all consultants, contractors, or temporary or casual employees of Council, who are involved in any Council procurement process, not only those staff members with financial delegation limits.

This Policy applies to all procurement and contracting activities undertaken by Council, including, but not limited to, the following methods:

- a) Field Purchase Authorisation;
- b) Petty cash;
- c) Council purchasing cards;
- d) Council credit cards;
- e) Expressions of Interest;
- f) Formal quotations;
- g) Informal quotations;
- h) Purchasing from an accredited source;
- i) Single sourcing;
- j) Tendering;
- k) Goods or services procured by third parties, such as contractors, acting as representatives of Council.

3.3 Responsible Person

The Chief Financial Officer will oversee the implementation of this policy.

3.4 Council's Procurement Objectives

Council's procurement objectives are:

a) Achieving Value for Money

Value for Money (VFM) is defined as the best possible outcome for the total cost of ownership over whole of life. VFM does not necessarily mean selecting the lowest value or price; rather, the right combination of quality, quantity and price at the right place and time, and where possible, having considered sustainability.

The value for money assessment includes:

- a. Cost-related factors including whole-of-life costs and transaction costs (amongst others) associated with acquisition, maintenance and disposal;
- b. Non-cost factors such as fitness for purpose, innovation, quality, risk profile, service, support, work health and safety (WHS), community, environment and sustainability requirements;
- c. Contribution to the advancement of Council priorities, especially those set out in Council's current Community Strategic Plan and Delivery Program;
- d. Purchase price consistent with standard market prices / rates; and
- e. The ability to provide the goods and/or perform services to a reasonable level depending on requirements.

b) Ensuring probity and accountability for procurement outcomes.

Council seeks to conduct its procurement activities in a transparent manner which demonstrates probity and accountability. Procurement activities involving members of Council staff must be:

- a. Performed ethically, transparently and with fairness to all participants;
- b. Carried out in accordance with the applicable legislation, guidelines, codes, policies and procedures;
- c. Undertaken by members of Council staff who have the appropriate authority and delegations and are trained to perform their assigned procurement role; and
- d. Be conducted on a "commercial-in-confidence" basis.

c) Ensuring fair and ethical dealings.

All procurement-related activities must be conducted honestly, transparently and in a manner that is fair and equitable to all parties. Therefore, procurement activities must:

- a. Be undertaken with consistent and appropriate documentation and processes to ensure equitable treatment throughout the process;
- b. Be free from any conflict of interest that may result in any unfavourable, favourable or preferential treatment;
- c. Ensure impartiality throughout the process; and
- d. Not seek or receive personal gain.

d) Sustainable and Social procurement.

Council is committed to taking positive action to minimise the negative impact of the products and services procured and maximising the benefits. This includes minimising unnecessary purchasing and purchasing goods and services that contribute to a more sustainable future that is ethical and supportive of fair trade.

Council's procurement practices also aim to apply the principle of Corporate Social responsibility (CSR) by taking positive action to demonstrate the Council's

commitment to the local community and environment on which its procurement activities impact. Sustainable and Social procurement is conducted through:

- a. Considering the environmental performance of all suppliers and contractors and encouraging them to conduct their operations in an environmentally sensitive manner;
- b. Selecting products/services where possible, that have minimal effect on the depletion of natural resources and biodiversity;
- c. Choosing environmentally preferred "Green" or recycled products and services where there is a value for money proposition;
- d. Purchasing ethically sourced and fair trade goods and services where appropriate; and
- e. Exploring opportunities to engage with social enterprises for the procurement of goods or services which support reinvigorating marginalised communities, underrepresented and disadvantaged people and increase the "social value" of doing business.

3.5 Local Supplier Preference

Council is committed to supporting the local economy and enhancing the capabilities of local business and industry by including a Local Supplier Preference framework in this Policy.

To ensure that value for money is achieved through use of local suppliers and contractors when purchasing, staff shall:

- a) Encourage a 'Buy local' culture within Council;
- b) Encourage local Suppliers to participate in Council business by advertising in local newspapers and other means considered appropriate;
- c) Utilise VendorPanel Public Marketplace as a means to access local suppliers;
- d) Ensure that procurement policies and procedures do not disadvantage local suppliers;
- e) Encourage use of local suppliers by contractors, whenever goods or services have to be sourced from outside the City;
- f) Apply a Local Supplier Criteria weighting of 5% to criteria assessed Request for Quotations valued at between \$20,000 and \$150,000;
- g) Apply a Local Supplier Criteria weighting of 5% to all Tenders; and
- h) Where applicable, when assessing Tenders, consider the Suppliers contribution to the Penrith LGA.

A Local Supplier is defined as an individual or entity providing goods and/or services that are either permanently based in, or employing permanent staff operating from, permanent premises situated within the Penrith City Local Government Area (LGA) for not less than six months prior to the date of the Procurement request.

3.6 Financial Management

The principle of responsible financial management is to be applied to all procurement activities. Council is accountable to ratepayers and needs to be able to demonstrate that all public money has been spent in line with Council's community objectives and expectations.

Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this policy.

Irrespective of the procurement value, the available budgetary funds must be confirmed and approved prior to the commencement of any procurement process.

3.7 Delegations

All procurement activities must be approved by a member of Council staff with the appropriate financial delegation and be in accordance with their instrument of delegation.

All members of Council staff engaged in procurement must:

- a) Have a copy of their delegation;
- b) Ensure that they understand the scope of their delegation including the financial limitations set out in their delegation instrument; and
- c) Not take action outside the scope of the delegated authority to their position.

3.8 Record Keeping

It is important to keep accurate records to demonstrate a transparent and equitable process, and that probity considerations have been applied.

Procurement records can be requested by external authorities or be the subject of a request for information under the *Government Information (Public Access) Act 2009*.

Accurate record keeping can assist Council to provide feedback to suppliers and can assist to effectively manage disputes and/ or breaches.

Records for procurement activities must be kept and recorded in Council's record management system in accordance with Council's Records Management Policy.

3.8 Prohibition of Gifts and Benefits

Councillors and Council staff must at all times act in accordance with relevant Acts, policies, guidelines and laws regarding gifts and hospitality. Under no circumstances, must any member of Council staff dealing with procurement accept any gift or benefit if it is likely to be perceived by a 'reasonable person', as intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of their duties, by such an action now and in the future, from a supplier, contractor, their agents or employees. All offers of gifts and benefits must be managed in accordance with Code of Conduct and Gifts and Benefits Policy.

3.9 Conflicts of Interest

A conflict of interest exists where a reasonable and informed person would perceive that a member of Council staff could be influenced by a private interest when carrying out their public duty. Members of Council staff involved in the procurement process must avoid any conflict of interest.

Any conflict of interest, whether pecuniary or non-pecuniary, involving a member of Council staff, their spouse, relative, partner, friend or business associate must be declared and must be dealt with in accordance with Council's Code of Conduct and Council's Conflicts of Interest Policy.

3.10 Disclosure of Information

When undertaking a procurement process, Council staff will have access to commercial in confidence information in order to fulfil their roles and responsibilities. Council staff are

required to take all reasonable steps to ensure information is stored securely and that all information in relation to the procurement process remains confidential, except that which is in the public domain. This includes the content of offers, any information that is disclosed or discussed in any interaction throughout the procurement process, any supporting information provided by Council or third parties and the outcomes of the evaluation.

4. Breaches of this Policy

A breach of this policy by any member of Council staff will be dealt with in accordance with any relevant staff agreements, awards, industrial agreements, contracts and Council policies, including the Code of Conduct and Code of Conduct Procedures.

If the matter tends to show or shows maladministration, corrupt conduct, serious and substantial waste, government information contravention or criminal activity, it will be referred by the General Manager to the appropriate investigative agency.

5. Supporting Documentation

This Policy should be read in conjunction with the following Council Policies and documents:

- Procurement Strategy
- Procurement Standards.
- Code of Conduct.
- Conflict of Interest Policy.
- Code of Meeting Practice.
- Complaints Management Policy.
- Probity Management Policy.