

# Upper Macquarie County Council

## **POLICY: UMCC\_2019\_10**

### **PROCUREMENT POLICY**

#### ***The acquisition of Goods, Works & Services.***

Adopted by: Upper Macquarie County Council

Date: 8<sup>th</sup> February 2019

Review Date: Every 4 years or as required

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18<sup>th</sup> June 2021

Policy Document Approved by:

David Young  
General Manager

Date: 18<sup>th</sup> June 2021

## 1. POLICY PURPOSE

This purpose of this policy is to set out the framework within which procurement of goods, works, and services is to be conducted by council, and as a consequence delivering the desired public benefit and organisational value from procurement activity.

## 2. SCOPE OF POLICY

This policy is applicable to all relevant procurement of goods, works and services by or for the County Council using County Council funds or funds under its care and control.

Procurement is the acquisition of goods, works, and services – not just purchasing. The process begins with the basic ‘make or buy’ decision and then spans out to the ‘whole life’ of setting up and managing supplier arrangements. In contrast purchasing is just the process of buying or obtaining goods, works, or services from a supplier.

## 3. POLICY CONTEXT

The policy is prepared taking into account the principles of sound financial management set out in the local government legislation.

Section 8B the Local Government Act (1993) requires “... *Council spending should be responsible and sustainable.....*”

Section 55 (1) of the Local Government Act (1993) requires a council to (in most cases) use a tendering process before entering into a contract for the provision of goods and services.

Section 55 (3) of the Local Government Act (1993) provides a number of exemptions from tendering including (relevant to the County Council) for: contracts between councils, a contract for purchase through NSW Procurement, Local Government Procurement or Procurement Australia. In addition Clause 163 of the Local Government Regulation (2005) provides that any contract of expected value less than \$150,000 is also exempt.

Council does not anticipate, under normal operating conditions, that it will enter into any contracts with a value of greater than \$150,000. Where higher value contracts are anticipated the Council will comply fully with the detailed requirements set out in Part 7 Clauses 166 to 179 of the Local Government Regulation (2005).

## 4. POLICY POSITION

The County Council is committed to ensuring ‘value for money’ is obtained when procuring goods, works and services for the people of the Upper Macquarie County Council area of operations.

The County Council’s procurement policy, functions and procedures will be consistent with the provisions of relevant legislation, related council policies, and where applicable industry best practice.

The County Council sets out financial delegations through the respective instruments of delegation issued to the Chairman and General Manager from time to time.

Funds available for procurement activity are limited to those formally provided in the Annual Operating Plan and Annual Budget and from time through budget adjustments approved in the QBRS (Quarterly Budget Review Statement).

## 5. PROCUREMENT RISK

Risk management is important in procurement. An understanding and the application of risk management within Councils procurement processes will provide opportunities for cost savings and improve quality assurance, while also reducing the possibility that unexpected events will occur and if they do occur lessen their impact.

In procurement risk, there is the possibility that an expected outcome will not occur or an unforeseen event will occur, and that as a consequence value for money may be compromised. Procurement risk can arise from limited information and lack of experience or knowledge on which decisions are made, failing to follow procedures, and / or uncertainty about the future and/ or external impacts.

Procurement risk comes from matters associated with one or more of five possible sources:

- Under the control or responsibility of Council (e.g. Council being incapable, unwittingly, or unwilling to fulfill it's obligations)
- Under the control or responsibility of the supplier (e.g. the supplier being incapable, unwittingly, or unwilling to fulfill it's obligations)
- Arising from the contract between the parties (e.g. inadequate or impossible terms or conditions)
- Outside the control of either contracted party (e.g. impacts from 3<sup>rd</sup> parties or the external environment) and
- With the goods, works or services procured by the Council and provided by the supplier (e.g. supplies or materials faulty or substandard).

The County Council has a two-part approach to risk planning and management as follows:

1. For 'simple procurement' the use of a Checklist of potential risks in the procurement process.
2. For 'complex procurement' the preparation of a risk management plan to record assessed risks, the likely consequences of these risks, and the treatment and monitoring actions to be implemented. This is typically part of the procurement planning for high value contracts.

## **6. PROBITY**

The County Council is committed to probity in the procurement process – that is a commitment to complete and confirmed integrity, transparency, uprightness and honesty in all procurement actions.

Probity contributes to sound procurement processes that accord equal opportunities for all participants. A good outcome is achieved when probity is applied with common sense, and when it is integrated into all procurement decision-making – not as a separate consideration. Adopting an ethical, transparent approach enables business to be conducted fairly, reasonably and with integrity. Ethical behavior also enables the Council's procurement activity to be conducted in a manner that allows all participating suppliers to compete as equally as possible.

Conflicts of interest may arise in the course of business operations, especially during the procurement process. Possible conflicts are extremely varied but include pecuniary interest, legal interests, relationships with external associations, and non-direct personal interests.

Importantly in carry out one's duties, Council procurement managers must not allow themselves to be improperly influenced by family, personal or business relationships.

Fraud and corruption is dealt with under the Council's Code of Conduct and such standards set out therein apply equally to tenderers, contractors, and suppliers as well as their employees and subcontractors when engaged by the Council. Key elements applicable in

the procurement process are: (a) behaving honestly and with integrity, (b) not making improper use of any inside information, status or power or authority - in order to gain a benefit for one's self or any other person; and (c) at all times behaving in a way that upholds the values, integrity and good reputation of the County Council.

## 7. BENEFITS REALISATION

The outcome from procurement activity is the benefits that are realised for the community and the organisation. All procurement decision-making must include an understanding of what is to be achieved by undertaking a procurement activity, and ensuring that the outcome is tested from time to time during and at the end of the lifecycle of the goods, works or services procured. This will assist in reviewing and refining the specifications of goods, works or services the next time a similar procurement activity is being planned.

## 8. KEY PROCUREMENT METHODS

Procurement Methods to be used by the County Council are based on the value and risk associated each planned procurement activity as follows:

### **Simple Procurement:**

Procurement Value < \$500 requires at least 1 verbal quote.

Procurement Value > \$500 to <\$5,000 requires at least 1 or more written quotes.

Procurement Value > \$5,000 to <\$150,000 requires at least 3 written quotes.

### **Complex Procurement:**

Procurement Value > \$5,000 to <\$50,000 requires at least 3 written quotes.

Procurement Value > \$50,000 requires a public tender process.

*GM Note: For any procurement where quotes-only are required. Where the General Manager is satisfied that, due to the nature of the procurement subject (such as where products only have a single local supplier; special skill or product requirements limit the number of reasonably available local suppliers; or the service is supplementary to a previous valid engagement etc.), it is not reasonably possible to get the required three quotes then a lesser number of quotes may be Authorised.*

## 9. PROCUREMENT COMPLEXITY

The County Council recognises that for the purposes of its procurement functions there are generally two types of procurement – simple procurement and complex procurement.

While all procurement activity must ensure probity, integrity fairness and consistency, and achieve value-for-money – simple procurement by its nature can be a condensed streamlined process to improve effectiveness without compromising accountability. In contrast complex procurement requires a structured procurement process.

**Simple Procurement** is defined as procurement of any value up to \$150,000 that is 'lower-risk' in nature due to the following characteristics:

- ✓ Details of the good, work or service is well known and easily identified;
- ✓ The good, work or service is readily available;
- ✓ The good, work or service has been procured successfully on previous occasions;  
OR is available under 'government contract'
- ✓ There is a competitive market for the good, work or service;
- ✓ The primary selection criteria are price and availability;
- ✓ A check shows there is low procurement risk.

**Complex Procurement** is defined as procurement of any value greater than \$5,000 that is 'higher-risk' in nature due to the following characteristics:

- ✓ Details of the good, work or service are not well known and not easily identified;
- ✓ The good, work or service is not readily available;
- ✓ The good, work or service has not been procured successfully on previous occasions;
- ✓ There is not a competitive market for the good, work or service;
- ✓ The primary selection criteria are performance, experience, or technical matters;
- ✓ A check shows there that procurement risk is 'medium' to 'high'.

Where there is any doubt about procurement complexity the default categorisation is 'complex procurement' unless otherwise approved by the General Manager.

## 10. PROCUREMENT RULES

The following list highlights some of the key rules that apply to County Council procurement activities. There are other constraints and requirements set out in the procurement manual that are update from time to time, and new rules may be introduced as and when required.

1. Procurement 'value' refers to the total sum of the projected value of a procurement taking into account all costs paid to the supplier/ contractor over the life of the procurement contract. *(E.g. For a 'good' it will be the purchase price plus any ongoing service fees and consumable fees; for a 'works' contract it will be the lump sum price (if any) paid over the term of the contract including all schedule of rate works forming the contract or added to the contract.)*
2. 'Order Splitting' with the intention of avoiding upper procurement value thresholds is inconsistent with the objectives of the procurement system and is prohibited.
3. No contract can be entered into with any party, other than a constituent council, for a period exceeding 5 years. This includes all possible options and extensions).
4. Professional Indemnity insurance is not to be required unless professional services are being supplied AND it is Council's intention to rely on the advice or information provided by the supplier.
5. Public Liability Insurance is required for all 'on the ground' works and services with a minimum required value of \$10,000,000 and for 'in the air' works and services with a minimum required value of \$20,000,000. A greater amount may be required in some circumstances – with prior approval from the General Manager.
6. Where a good, work or service can be obtained through a government contract under a State or Local government purchasing program, then that should be the preferred procurement route unless it clearly does not meet Council requirements.
7. Council may use a constituent council supplier arrangement (prequalification scheme, standing offer, etc) with the agreement of the constituent council.
8. A supplier arrangement must not mandate previous government experience – i.e. such experience must not be an essential assessment criteria.
9. The guidelines and procedures set out in the County Council Procurement Manual must be followed for all procurement activity.
10. Notwithstanding anything set out in this policy where tendering is involved it must be implemented in strict accordance with the Local Government Regulation (2005)

## 11. FLEET PROCUREMENT

The Council vehicle fleet has an essential role in delivery of Council's annual program of works and the associated quality of its role as a local weed control authority. Accordingly, *procurement* of the fleet involves not only the simple disposal and purchase of appropriate vehicles from time to time, but it also includes important 'life-cycle' management and 'fit-for-purpose' decisions.

Within the above context, strategic management of the fleet will be undertaken according to the following standards:

- Council will purchase vehicles for the fleet through accessing fleet purchase schemes available to the whole of Local Government.
- Turnover of vehicles will generally take place after ownership of between 5 and 7 years (depending on individual vehicle use and condition) and targeting less than 200,000kms on the odometer.
- The fleet will primarily be comprised of appropriate 4WD commercial utility vehicles.
- Specification of essential and optional vehicle requirements will be objectively established prior to each procurement action - based on work requirement, work health and safety, and risk management considerations.
- Safer and more fuel-efficient models will be prioritised provided key operating 'fitness for purpose' characteristics are not compromised.
- Procurement selection weightings will skew towards vehicle quality, reliability and fitness for purpose criteria, rather than price. (i.e., typically, 'non-price' criteria would be 60-70% and 'price' criteria 30-40%).
- Monitor individual and model type annual operating costs as an indicator of a vehicle's resilience / reliability and hence an earlier or later optimum replacement decision.

It is Council Policy to routinely fund the purchase of fleet vehicles from the internally restricted Plant & Vehicle Replacement Fund account, and as part of the annual end-of-year adjustments transfer the cash value of the annual budgeted depreciation amount into the Plant & Vehicle Replacement Fund account to replenish it.

## 12. PROCUREMENT MANUAL

A 'Procurement Manual' supports the policy. The manual will set out detailed procedures that reflect the nature of the County Council procurement environment.

In particular the manual will –as necessary - set out any detailed requirements for one or more of: needs analysis; funding approval; procurement planning; document preparation; market testing; contract management; and procurement evaluation.

Where a procurement matter is not clearly covered by the policy or the manual the matter should be referred to the General Manager for resolution.

*[Note the manual is currently a work in progress]*