

COBAR SHIRE COUNCIL



PROCUREMENT POLICY

FILE:P5-85

TABLE OF CONTENTS

PURPOSE	3
RELEVANT LEGISLATION	3
RELATED POLICIES	3
RELATED GUIDELINES	3
APPLICATION OF THIS POLICY	4
PROCUREMENT MANAGEMENT	4
COBAR SHIRE COUNCIL PROCUREMENT GUIDELINES	4
FINANCIAL DELEGATIONS FOR PROCUREMENT AND LOCAL PREFERENCE	4
CATEGORIES AND THRESHOLDS FOR PROCUREMENT	4
MINIMUM LEVELS OF COMPETITION	5
ALTERNATIVE METHODS FOR PROCUREMENT	5
PURCHASE ORDERS	6
EXCEPTIONS	6
TENDERING	7
METHODS OF TENDERING	7
SHORTENING OR EXTENSION OF TENDER PERIOD	7
ADVERTISING OF TENDERS	7
ELECTRONIC TENDERING	7
PROCUREMENT PROTOCOL	8
ETHICS AND PROBITY	8
GOVERNANCE	8
LOBBYING	8
TENDER SPECIFICATIONS AND ASSESSMENT CRITERIA	9
<i>Specifications</i>	9
<i>Assessment Criteria for Tenders</i>	9
<i>Weighting of Assessment Criteria</i>	10
<i>Key Considerations in Assessing Tenders</i>	11
TENDER ASSESSMENT PANELS	13
TENDER REVIEW PANEL	13
BUILDING AND MAINTAINING PROCUREMENT CAPACITY	13
NON COMPLIANCE	14
VARIATION	14

PURPOSE

The objective of this policy is to establish the principles for procurement activities by Council and to provide clear guidelines for the procurement of goods and services, including ensuring best value for money, good management practices, legislative compliance, transparency in tendering decisions, probity, and environmental performance.

RELEVANT LEGISLATION

- Local Government Act 1993
- Local Government (General) Regulation 2005 – Part 7 Tendering
- Government Information (Public Access) Act 2009

RELATED POLICIES

- Code of Conduct
- Purchasing System and Authority Levels
- Community Strategic Plan – Cobar Shire 2025
- Complaints Management Policy
- Provision and Use of Councils Corporate Credit Card Policy
- Fraud Control Policy
- Business Ethics Policy
- Corruption Prevention Management Plan

RELATED GUIDELINES

- Tendering Guidelines for NSW Local Government (Division of Local Government Circular 09-39)
- Tendering Procedures Manual

APPLICATION OF THIS POLICY

This Policy applies to all procurement and contracting activities undertaken by Cobar Shire Council, other than statutory payments or payments for membership of Regional or State organisations and is binding on all Councillors, Council staff, suppliers, contractors and consultants.

PROCUREMENT MANAGEMENT

Cobar Shire Council Procurement Guidelines

The Cobar Shire Council Procurement Guidelines provide guidance for Council Staff in their day to day activities in managing purchasing, quotations, tendering and expressions of interest and contract management.

The Guidelines are a set of documents that may be amended from time to time to incorporate changes to legislation and keep pace with best practice.

Approval of amendments to the Guidelines is managed through the General Manager.

Financial Delegations for Procurement and Local Preference

Financial delegations define the financial limitations within which specified staff may approve a purchase, quotation and contractual processes. This allows Council to conduct business activities in an efficient and timely manner whilst maintaining transparency and integrity. All procurement must be undertaken within these delegations (Refer to Cobar Shire Council Purchasing System and Authority Levels - File: A2-5). This document states:

Council has a commitment to enhancing the prosperity of the Cobar community but also has a duty to be financially responsible.

The price of a locally supplied good or service should be compared with goods from outside of Cobar, taking into account any additional freight and handling costs associated.

Categories and Thresholds for Procurement

The minimum levels of procurement thresholds are shown below. This indicates the minimum amounts and at which further quotations will be needed if there is difficulty in ensuring value for money is achieved.

Minimum Levels of Competition

a) Goods and services up to \$20,000 in value

Two formal (written) quotations for goods and services will be required for value above \$501.00 (inclusive of GST). For value of goods and services below \$500.00 (inclusive of GST) a verbal quotation can be accepted. If only one quotation is obtained the responsible officer must ensure the rate being considered is reasonable and consistent with normal market rates for items of a like nature.

b) Goods and services over \$20,000 and up to \$149,999 in value

At least three written quotations are required when the goods and services being procured exceed \$20,000 (inclusive of GST) and up to the value of \$149,999 (inclusive of GST), subject to the rates being considered reasonable and consistent with normal market rates for items of a like nature.

e) Goods and services over \$150,000 in value

An open tender process, or a selective tendering process either by which invitations to tender for proposed contract are made following public advertisement asking for expressions of interest or by which recognised contractors listed by council are invited to tender for particular kinds of proposed contracts, in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005 is required for contracts for goods and services where the value is \$150,000 or greater (inclusive of GST). A full tender documentation and assessment process must be followed strictly in accordance with the above mentioned legislation (unless one or more of the exemptions contained in section 55(3) of the Local Government Act 1993 are relevantly applicable [see below]).

Note: Exceptions for Goods and Services over \$5,000 but less than \$150,000

There may be exceptions where there is (a) a genuine urgent circumstance, (b) where there is only one firm or person capable or available to undertake the task, or (c) where it is a continuance of a previous specialised task. In such circumstances, the arrangement is to be commercially negotiated to achieve the best value for money. This exception can only be followed after written agreement by the relevant Department Director or the General Manager in accordance with established delegations of authority.

Alternative methods for Procurement

The alternative methods of procurement of Goods and Services may be by one of the following methods:

- Petty Cash (purchases up to \$50.00) ;
- Purchase via Council's Store ;
- Purchase via preferred suppliers (sourced through formal Request for Quotation following a formal Tender process) ;
- Direct purchasing ;
- Purchasing via NSW State Government Contracts ;
- Purchasing via Local Government Procurement ;
- Procurement through the tender or quotation process, including the following methods:
 - established panels;
 - the OROC procurement process ;
 - Regional Procurement Initiative

Purchase Orders

A purchase order is Council's official document used to purchase goods or services from an external supplier. A purchase order confirms the contractual arrangement between Council and the supplier and is to be used for procurement of all goods and services.

Exceptions

In the interest of maintaining efficiency in the purchasing process there are some instances where the procedures outlined in this policy can be bypassed. These instances include:

- Where the Goods/Materials/Services being purchased are of a nominal value eg. where the expected cost is under \$500.00. Payment will be by cheque or EFT on presentation of an invoice.
- Services such as utilities ie. phone, power, water & gas bills that do not have purchase orders raised in the normal course of business.
- Emergency Works Orders – for the supply of goods or materials/services which are required in an emergency or unplanned event.

TENDERING

Methods of Tendering

Council will use one of the following methods when calling for Tenders:

- a. Open tendering - by which tenders for the proposed contract are invited by public advertisement;
- b. Selective tendering - by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest;
- c. Selective tendering - by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.

For Minor Works Contracts less than \$150,000 a “Request for Quotation” may be invited by public advertisement.

Shortening or Extension of Tender Period

Council may in certain circumstances shorten or extend the minimum 21 day tender advertising period in accordance with Clause 171 and 172 of the Local Government (General) Regulations 2005.

Reasons for shortening a tender advertising period must be provided in the tender documentation.

Advertising of Tenders

Tenders are to be advertised both in a major metropolitan daily newspaper as well as a newspaper circulating in the local area. Requests for Quotations and Expression of Interest are to be advertised at least in a newspaper circulating in the local area.

Electronic Tendering

In addition to newspaper advertising Tenders, Request for Quotations and Expression of Interest are to be invited through Council’s website.

PROCUREMENT PROTOCOL

Ethics and Probity

General - The Council's procurement activities are to be performed with integrity and in a manner able to withstand the closest possible scrutiny.

Conduct of Council Staff - Council staff at all times are to conduct business that is ethical and of the highest integrity and are required to:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity;
- be able to account for all decisions and provide feedback on them;
- not be involved in any activity such as performing work with suppliers, consultants or contractors;
- ensure adherence to the Local Government Act 1993, (Section 55); Local Government (General) Regulation 2005, (Part 7); and Council's Code of Conduct Policy;
- not engage in the practice of so-called “order splitting” with suppliers, consultants or contractors.

Governance

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 costs of the procurement process without compromising any of the procurement principles set out in this Policy.

Record Keeping – All substantive communications with potential suppliers in respect of tender evaluations and quotations should be in writing or in formal minuted meetings.

Records for all Procurement activities must be kept and recorded in the Council record management system.

Lobbying

Lobbying of Councillors and staff by tenderers or their agents is not permitted and shall result in their disqualification from the tender process on that occasion. For the purposes of this clause “lobbying” shall include seeking to influence, seeking to obtain support or assistance, and urging or persuading.

Tender Specifications and Assessment Criteria

Specifications

Tender specifications will be written in a way that will encourage open and effective competition by providing the best possible opportunity for potential suppliers to develop solutions capable of satisfying predetermined requirements.

Specifications will not include any feature which discriminates, either directly or indirectly, against any supplier or group of suppliers. Specification of any feature that could be perceived as discriminatory, such as items that are specific to a particular technology or brand, should be avoided. Specifications should encourage suppliers, wherever possible, to offer alternative options which can reasonably be adapted to meet requirements.

Each specification is to be authorised and endorsed by the appropriate Department Director.

Assessment Criteria for Tenders

Every tender called by Council will be assessed using the following standard assessment criteria as a minimum. Whilst other criteria may be used which are more specific to each tender, the following criteria must be applied to all assessments:

Financial Assessment must include identification of all relevant costs, individual analysis of costings contained in each submission, and cost comparisons between all competing submissions. The initial (once only), and ongoing costs, must be identified and calculated in the process of assessment of tender submissions.

Capability Assessment shall include the experience of the tenderer and the experience and qualifications of the key personnel who will be operating the contract, including management and supervision, and the capability of the contractor to work within the relevant policies of Council.

Technical & Methodological Assessment shall evaluate how the tenderer proposes to fulfil the obligations of the tender, and whether the tender submission meets the requirements set out in the specification.

An independent financial assessment and report on potential contractors and suppliers of major goods and services should be obtained in relation to a tenderer being recommended for selection for major projects and may be considered in the event of 2 or more tenderers unable to be separated in the assessment and evaluation phase of the tender process.

A Work Health and Safety Assessment must be performed where the tender involves the completion of works of any description. When purchasing goods, materials or services for Council, the provisions of the Work Health and Safety Act 2011 should be adhered to. This includes:

- ensuring that any plant or substance provided for use by the employees at work is safe and without risks to health when properly used;
- providing such information, instruction, training and supervision as may be necessary to ensure the employees health and safety at work;
- all safety aid operating information must be supplied with all products and equipment;
- a work method statement must be completed before any plant items are purchased.

Environmental Assessment is essential where environmental issues may be involved. All persons or organisations responding to public calls for tenders, quotations or expressions of interest shall be asked to provide the following information within their submissions:

- a copy of their environmental policy or equivalent;
- details of their environmental management strategy (where appropriate);
- their commitment to due diligence in regard to environmental legislation;
- documentation outlining past performance in regard to environment protection;
- evidence of selection and use of products based on a principle of 'value for money' over their life cycle, and consideration of other issues such as low wastage levels and use of recycled content and usability of those products.

Weighting of Assessment Criteria

Assessment criteria shall be weighted in order of importance and relevance to the specified tender. The weightings applied to criteria shall be determined by the Manager overseeing the tender in consultation with the tender panel convened to assess and select a tender. The assessment criteria and their weightings should then be included in the tender documentation.

Factors may include but are not limited to:

- whole of life costs, including capital, operational and disposal costs;
- innovation offered;
- delivery times offered;

- quality offered;
- previous performance of tenderer;
- experience of tenderer and their personnel;
- capability of tenderer, including technical, management, staff, organisational and financial capability and capacity;
- tenderer's work health and safety management practices and performance;
- tenderer's workplace and industrial relations management practices and performance;

Key Considerations in Assessing Tenders

Impartiality

Impartiality must be observed throughout the entire tendering process so as not to exclude or favour any tenderer.

Insurance

The type and level of insurances required, particularly public liability insurance, will be investigated when arranging a specification for the particular contract.

Achieving Value for Money

Purchasing decisions should be made on the basis of value for money over the life cycle of products, rather than just the cheaper up-front purchase price.

This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability, safety, risk and delivery considerations. Price is not the sole determinant of value for money.

Where choices are made on the basis of cost, reasons for not purchasing recycled or environmentally preferable products may be required.

It is recognised that in some cases the selection of environmentally preferable products and materials may be less competitive.

Environmental Performance

Council will give preference to, and purchase, environmentally performing products that are cost competitive.

The specific objectives for sustainable procurement are to:

- Minimise unnecessary purchasing – only purchase when a product or service is necessary.

- Minimise waste – purchase in accordance with reduce, reuse and recycle strategies.
- Save water and energy – purchase products that save energy and/or water.
- Minimise pollution – avoid purchasing products that pollute soils, air or waterways.
- Eliminate toxic products – avoid where possible purchasing hazardous chemicals that may be harmful to human health or ecosystems.
- Reduce greenhouse emission – purchase products that reduce greenhouse gas emissions.
- Achieve biodiversity and habitat protection – purchase in accordance with biodiversity and conservation objectives.

Sustainable Procurement Actions - In delivery of the specific objectives, Council is to pursue the following actions through sustainable procurement to:

- Eliminate inefficiency, waste and expenditure.
- Contribute to the combined purchasing power of Local Government to further stimulate demand for sustainable products.
- Advance sustainability by participating in “closing the life-cycle loop”.
- Increase awareness about the range and quality of products available.
- Deliver Council’s commitments in relation to ecologically sustainable development (ESD) and other environmental and social objectives.
- Play a leadership role in advancing long term social and environmental sustainability.
- Meet the objectives set out in its adopted Community Strategic Plan.
- Support local businesses and organisations.

Transparency of Process

Principles of transparency, consistency and probity will be applied to all processes in the preparation, advertisement, assessment and management of tenders and quotations by Council.

Conflict of Interest

Any conflict of interest must be reported to the General Manager and dealt with immediately. This will apply to Councillors, Council staff and tenderers.

Accountability

Accountability is important as funds must be used in the most cost effective and efficient manner.

Risk Management

Risk Management is to be appropriately applied at all stages of the procurement process which must be properly planned and carried out in a manner that will protect and enhance the Council's capacity.

Monitor and Evaluate Performance

To ensure probity, on completion of each tender a formal performance review must be completed and documented by the Manager overseeing the tender.

Non Conforming Tender

A tender is nonconforming when there is an absence of any requirement clearly detailed in the Conditions of Tendering. If a tender received is non-conforming, the report to Council must state the reason why the tender was classed as non-conforming and not considered.

Tender Assessment Panels

The Manager overseeing the tender will convene a Tender Assessment Panel to oversee and assist in the calling, assessment and selection of specific tenders and quotations. The composition of the tender panel will be determined by the Manager using Council staff expertise relevant to the area associated with the tender, however must be approved by the General Manager.

From time to time it may be necessary to utilise external expertise to assist the panel in development of specifications, assessment and selection. In these instances, the same standards of declaration of interests apply as those that apply to consultants and professional services. Any appointment of a consultant or professional services in a tender process must be approved by the General Manager.

All staff involved in preparing and/or assessing tenders are required to complete a Declaration of a Conflict of Interest / Pecuniary Interest Disclosure.

Tender Review Panel

The General Manager will establish a Tender Review Panel to oversee all processes in calling and evaluating Tenders and Public Quotations as per Council's Procurement Policy and Guidelines, and Section 55 of the Local Government Act 1993, particularly for:

- Probity ;
- Ethics ;
- Transparency ;
- Price ;
- Work Health and Safety ;
- Adherence to Cobar Shire Council and Local Government Act requirements.

Building and Maintaining Procurement Capacity

Procurement Options - Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate procurement path must be carried out on an individual purchase / project basis.

Participation in regional projects or panels and access to Local Government and State Government panel agreements or other means are to be considered to ensure that arrangements deliver the best value outcomes in terms of value for money, sustainability, protection of the environment, corporate social responsibility, Work Health and Safety standards and risk management.

Supply Market Development - A wide range of suppliers should be encouraged to compete for Council work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:

- Local businesses.
- Suppliers with a focus on sustainability.
- Small to medium sized enterprises.
- Social enterprises.
- Voluntary and community organisations.

Continual Improvement - Council is committed to continuous improvement with review of the procurement policy and guidelines on a regular basis to ensure Council's standards and processes comply with current legislation and market changes.

Staff Training - Council is committed to the training of Council staff in the procurement process from initiation of procurement to contract management.

NON COMPLIANCE

Non-compliance with this policy may result in disciplinary action and/or dismissal.

VARIATION

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.

This Policy is automatically amended as a result of any changes to the Local Government Act 1993, the Local Government (General) Regulation 2005, or other amending legislation, it being noted that the Act and Regulations take precedent over the Council's Policy.

