



WAVERLEY
COUNCIL

Procurement Policy

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Relevant legislation	Local Government Act 1993, (NSW) the Local Government Amendment Act 2019, the Local Government (General) Regulation 2021, the Tendering Guidelines for NSW Local Government 2009, (the Government Information (Public Access) Act 2009 (the GIPA Act), the State Records Act 1998 and the Modern Slavery Amendment Act 2021 NSW Cyber Security Policy 2024
Related policies/procedures/guidelines	Waverley Council Procurement Procedures Waverley Council Code of Conduct Waverley Council Statement of Business Ethics Tendering Guidelines for NSW Local Government 2009 (OLG) ISO 20400:2017 Sustainable Procurement Waverley Council Environmental Action Plan Credit Card Procedure
Related forms	

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1. Background

Effective Procurement is important in ensuring the Council achieves its objectives, demonstrates value for money and delivers benefits to the community when expending or receiving goods and services. Procurement also comes with risks and challenges in ensuring the expenditure or receipt of goods and services is delivered to expectations. The risks of fraud and conflicts of interest also need to be mitigated.

The legislative requirements related to procurement in the Local Government sector are focused on sourcing and assessing tender offers. These requirements are included in the Local Government Act 1993, the Local Government Act 2019, the Local Government (General) Regulation 2005, the Tendering Guidelines for NSW Local Government 2009, the Government Information (Public Access) Act 2009 (the GIPA Act) the State Records Act 1998 and the Modern Slavery Amendment Act 2021.

2. Purpose

The Purpose of this policy is to provide the principles for Council staff to follow in the procurement of all consultants, contractors, goods, capital works and services. The policy supports the Council's corporate strategies and objectives including those related to circular economy, and positive environmental and social outcomes.

3. Scope

The policy applies to all contracting and procurement activities undertaken by Council and is binding upon all Councillors and Council staff (permanent, temporary and contractors). The policy covers the objectives, requirements and responsibilities in the procurement of all goods and services for the Council. The Policy excludes the acquisition, disposal or lease of land and real property.

4. Policy Content

4.1 Value for Money Procurement

The availability of existing funds within an approved budget, or source of funds, should be established prior to the commencement of any procurement process. Council employees must not authorise the expenditure of funds in excess of their financial delegations or available budget. Delegations are administered by Governance.

Council funds must be used efficiently and effectively to procure goods and services and achieve value for money. Value for money is a key driver for procurement. It does not necessarily mean getting the lowest price or the highest quality immediately, but it does consider the total benefit of the goods and services over the life of the contract.

Price is not the sole factor when assessing value for money. When conducting a procurement, we must always consider the relevant financial and non-financial costs and benefits of each submission including, but not limited to the;

- Quality and fitness for the purpose of the goods and services.
- Potential supplier's relevant experience and performance history.
- Flexibility of the proposal (including innovation and adaptability over the lifecycle of the contract).
- Whole-of-life costs i.e. initial value of expenditure or receipt of the goods and services, maintenance and operating costs, transition out costs, licensing costs (when applicable), the cost of additional.

features procured after the initial procurement, consumable costs, decommissioning, remediation and disposal costs (including waste disposal).

- Demonstrated commitment to advancing the circular economy, positive environmental and social outcomes and fair labour practices.

4.2 Ethical Procurement

- **Honesty and fairness** - All Council procurement activities must be conducted in a fair, honest and objective manner, with the highest levels of probity and integrity.
- **Accountability and transparency** - Accountability in procurement means being able to explain, take responsibility for, and provide evidence about the process followed. An independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.
- **Consistency** - Consistency must apply in all stages of the procurement process.
- **Conflict of interest** – Must be managed in accordance with Council’s [Code of Conduct](#). A Council official with an actual, perceived or potential conflict of interest must declare and manage that interest fully and in writing as soon as practicable after becoming aware of the conflict of interest, and on each occasion on which the conflict of interest arises. Members of a tender / quotation evaluation panel must complete a Conflict-of-Interest Declaration form and return it to their Procurement team member for filing in TRIM.
- **No anti-competitive practices** - Council must not engage in practices that are anti-competitive or collusive.
- **Open and fair competition** - All suppliers / tenderers are to be treated fairly in an open and transparent manner and have access to the same information. There must be no improper advantage provided.
- **Intention to proceed** - Council must not invite or submit tenders without a firm intention and capacity to proceed with a contract, including having approved budgeted funds available.

4.3 Environmentally Positive, Sustainable and Circular Procurement

Council officers must consider positive environmental and circular economy outcomes when expenditure or receipt of products and services to contribute to the achievement of Council’s Environmental commitments.

Council will seek products and services (when expenditure or receipt) that advance positive environmental impact, eliminate waste and pollution, circulate products and materials (at their highest value), regenerate nature and work wherever they achieve the same function and deliver value for money outcomes.

Council principles for Sustainable Procurement follow those set out in [ISO 20400 Sustainable Procurement and Circular economy principles](#), and:

- eliminate unnecessary inefficiency,
- advance positive environmental impact, eliminate waste and pollution, circulate products and materials (at their highest value), and regenerate nature.
- Work with Pre-Qualified Suppliers and Vendor Panels to stimulate demand for environmentally positive and circular products and services.
- increase awareness about the range and quality of environmentally positive and circular products available.
- play a leadership role in advancing long term social and environmental sustainability and the circular economy.
- Procure goods that include recycled content.

- Expenditure or receipt of product that reduces greenhouse gas emissions and saves energy and/or enhances climate resilience.
- Avoid products that pollute soil, air, waterways or that may be harmful to humans' health or ecosystems.
- Expenditure or receipt of in accordance with biodiversity, conservation and environmental enhancement objectives.

Use of Contractors Supporting Adani

When deciding on the award of a contract, where all other factors are equal, Council prefers entering into arrangements with suppliers not identified as supplying goods or services to the Adani Coal Project (Use of Contractors Supporting Adani, TRIM Ref **D21/71488**).

4.4 Socially Positive Procurement

The Council aims to use our procurement processes to generate positive social outcomes by exploring and implementing procurement practices and strategies that provide social value to the community by including social considerations into value for money evaluations. This allows Council to promote outcomes beyond financial benefits and contribute to building strong communities. Consideration should be given to;

- **Employment and Training** – Create opportunities for inclusion of people who have been excluded from the workforce.
- **Diversity and Equality** – Encourage the procurement of goods and services where possible from suppliers that are owned by or have strategies in place to employ people from an Aboriginal and/or Torres Strait Islander background, people from migrant or refugee backgrounds, people with disabilities and people from other disadvantaged backgrounds.
- **Fair trade and human rights** – Where possible, ensuring that supply chains are adhering to fair trade practices to support equitable local, national and international trade.
- **Accessibility Requirements** – Australian Disability Enterprises may be considered when making procurement decisions for goods and services (refer [Australian Disability Enterprises \(ADEs\)](#))
- **Support the local economy and enhance the capabilities of local business and industry** - give due consideration to the actual and potential benefits to the local economy of sourcing goods and services locally where possible, whilst maintaining a value for money approach at all times (refer [NSW Office of Small Business](#) and Waverley Council's [Keep it Local Campaign](#))

4.5 Modern Slavery Act Amendment Act 2021

The Council must ensure that expenditure or receipt of its goods and services are carried out in an ethical, fair and socially responsible manner in accordance with the Modern Slavery Act 2018. The Act requires reasonable steps to be taken to ensure that goods and services procured by and for government agencies are not the product of modern slavery. In this context, Modern Slavery includes;

- slavery, servitude, forced labour, deceptive recruiting for labour or services, forced marriage.
- trafficking in persons, trafficking in children.
- debt bondage.
- sexual servitude.
- forced child marriage.
- the use of a child in the production of child abuse material and related offences.
- the slavery, servitude or forced labour of a child.

It is important that Council's suppliers clearly understand the significance of complying with the Modern Slavery Act. To support this, Council's market approach documents including RFQ RFT and Expression of Interest (EOI), each contain references to the Modern Slavery Act.

Furthermore, in order to be accepted as a pre-qualified supplier on any of the external vendor panels Council frequently utilises, suppliers must agree to comply with the legislative requirements of the Modern Slavery Act and provide any relevant information to their respective vendor panel manager upon request. This provides Council with an additional level of assurance that when dealing with suppliers that have each gone through a comprehensive application process in order to become a pre-qualified supplier on these vendor panels, we can be certain that these suppliers are providing their goods and services in accordance with the relevant Modern Slavery legislative requirements.

4.6 Capital Project Partnerships

Guidelines for Capital Project Partnerships, including a framework that ensures probity and integrity from Council officers when negotiating directly with potential project partners for the delivery of Infrastructure and/or buildings with external project partners, are located in TRIM Ref D18/60365.

4.7 Promoting Good Management Practices

All tenders prepared by the Council will comply with the Local Government Act 1993, the Local Government (General) Regulation 2021 and the Modern Slavery Amendment Act 2021. All information required to be disclosed under the Government Information (Public Access) Act 2009 will be made available, and confidentiality will be maintained where appropriate.

Assessment of proposals shall ensure compliance with the Work Health & Safety Act 2011 to provide a safe working environment for all officers, suppliers, contractors, volunteers and visitors where materials and equipment procured are fit for purpose and comply with legislative and workplace requirements.

4.8 Emergency Procurement

When an emergency occurs, the General Manager may determine that a contract may be entered into to address any immediate need. In this circumstance, the spend threshold requirements will not apply. Emergencies are matters when there is urgent risk to public health, safety or security arising from unforeseen circumstances. Contracts entered into must respond only to immediate needs and be limited to dealing with the emergency while compliant procurement is undertaken.

4.9 Exemption to receiving the required number of quotes

In cases where the required number of quotes have been **requested from the market but not received**, then this may be taken as having "tested the market" and therefore compliant with policy once written approval from the divisional Director has been provided. This situation occasionally arises where;

- There are a relatively small number of competitors in the market.
- The expenditure or receipt of a good or service is unique or complex in nature and not often procured.

Evidence of quotes that have been requested and subsequent approval from a Director **must** be kept on file in TRIM for audit trail purposes.

In circumstances where the required number of quotes have not been requested (including where **no** quotes have been requested and a specific supplier needs to be engaged directly without an approach to the market), the procurement exemption must be approved as follows;

Value of expenditure or receipt of income (Incl. GST)	Approval Required
Up to \$50,000	Director
Between \$50,000 and \$250,000	General Manager
Over \$250,000	Council

The Procurement Exemption Template to be completed in this circumstance is located at this link;

[The Junction - Procurement](#)

The General Manager must report to Councillors on a monthly basis by email all exemptions approved by the General Manager.

Fees relating to the provision of **Legal Services and Advice** from external providers are exempt from the Spend Thresholds. This is due primarily to the urgent and critical nature of the Legal advice required, which due to time constraints, makes the process of obtaining quotes impractical. Where the advice is not urgent quotes must be obtained from the Legal Panel.

5. Pre-Qualified Supplier / Vendor Panels

There are a number of pre-qualified supplier panels for the supply of certain goods and/or services available to Council.

The Council must work with Pre-Qualified Suppliers and Vendor Panels (available on VendorPanel online eTendering platform) to further stimulate demand for circular and environmentally and socially positive products and services.

Refer to Council's procurement procedures or contact Council's Procurement team at procurement@waverley.nsw.gov.au for guidance on how to utilise the most appropriate panel to achieve the best outcome for your specific procurement event. Non-panel suppliers may be used where there is no approved supplier panel in accordance with the required number of quotes from the Spend Threshold table. (See Procurement Procedures document for spend thresholds)

6. Contract Disclosure and Register Management

All fully executed contracts, extensions and variations with suppliers **must** be provided to the Procurement team, who are responsible for uploading the documents onto the Contract Register.

Additionally, the Government Information (Public Access) Act (GIPA) requires Council to publish the relevant details of all contracts exceeding \$150,000 (Incl. GST) within 45 workings of the contract becoming effective. Where a procurement activity results in a contract for this amount or more

(including variations), the Procurement team are responsible for ensuring that the relevant details of the contract are uploaded into the contract register and disclosed publicly on Waverley Council's website.

Contracts exceeding \$150,000 (Incl. GST) must also be disclosed in Waverley Council's Annual Report. This component is facilitated by the Procurement and Finance teams.

It is important that once a contract has been awarded to a supplier, they carry out their obligations to provide goods and / or services as per their contract. This includes their environmental, circular and social responsibilities. This contributes to better-quality evaluation of both community, environmental, and value for money outcomes.

7. Responsibilities

7.1 General Manager

The General Manager is responsible for the authorisation of delegations to employees for the acquisition of goods and / or services to the value specified in that delegation. The General Manager may accept tenders, other than tenders for contracts to provide services currently provided by members of staff. Please note that this only applies to the acceptance of tenders. All other options for dealing with tenders such as postponing / cancelling / inviting fresh tenders / direct negotiations etc. must still go to Council for approval – this is required by legislation and cannot be sub-delegated by the General Manager.

7.2 Directors and Executive Managers

Directors and Executive Managers are responsible for ensuring their Directorate and Department staff adhere to the requirements of this policy, ensure that procurement spend is within approved budget parameters and provide guidance in respect of the strategic procurement goals of the organisation.

7.3 Council Staff (Permanent, temporary and contractors)

Staff must adhere to the requirements of this policy and operate within the authorities of any financial or procurement delegations granted to them by the General Manager.

7.4 Procurement Team

The Procurement team will facilitate public procurement events (RFQs or RFTs), and it will provide guidance, support and oversight for staff to ensure compliance with Procurement policy and procedure for all procurement events.

8. Monitoring

Procurement processes will be subject to audit / review on a timeframe determined by Council's Executive Leadership Team and / or the Audit, Risk and Improvement Committee (ARIC) focusing on a risk-based Audit Program. Scheduled and ad-hoc exception reporting may be undertaken by the Procurement Manager to enable monitoring of procurement activity and associated compliance.

9. Record keeping, confidentiality and privacy

Accurate and thorough records must be maintained throughout all procurement processes and filed on TRIM. Procurement practices are open to substantial internal and external scrutiny. Records relating to procurement processes can be examined through internal or external audit processes and by the ICAC. The general public may also seek access to information under the GIPA Act.

Council staff must ensure that appropriate procurement records are kept and maintained in accordance with the [Council's Records Management Program](#), [Code of Conduct](#), the [NSW State Records Act 1998](#) and the [Privacy and Personal Information Protection Act 1998](#).

10. Cyber Security

10.1 Overview

Having a strong cyber security capability and a culture of responsibility is an important component at Waverley Council. It enables the effective use of emerging technologies and ensures confidence in the services that Council provides to our customers and staff.

10.2 Procurement Requirements

Waverley Council's Procurement Policy outlines that "Cloud software and ICT services" tenders prepared by Council MUST meet the minimum technical requirements outlined in Waverley Council's "Request for Tender" (RFT) and "Request for Quote" (RFQ) templates.

11. Breaches of policy

Breaches of this policy will be dealt with in accordance with normal disciplinary procedures in accordance with the Council's Code of Conduct. Council has a clear obligation to report serious matters to the Police and/or the ICAC which potentially could result in civil or criminal proceedings. There is a statutory requirement for the Council to report all suspected fraud to the ICAC, irrespective of the amount involved.

12. Applicable Legislation and Guidelines

This policy is to be read in conjunction with the following.

- Local Government Act 1993
- Local Government (General) Regulation 2021
- Government Information (Public Access) Act 2009
- NSW Independent Commission Against Corruption (ICAC)
- Tendering Guidelines for NSW Local Government
- Modern Slavery Amendment Act 2021
- NSW Cyber Security Policy 2024

13. Definitions

Australian Disability Enterprises (ADEs)	Businesses supported by the NSW Government that employ people with a disability.
Council	Waverley Council.
Council Officer	Employees (permanent/temporary) and contractors engaged by Waverley Council.
Consultant	A person or an entity engaged to provide advice and/or designs where the Council relies on that advice and/or design in its decision-making process.
Probity	A process consistent with the Council's policies and legislation that treats all potential suppliers fairly, equally and transparently.
Procurement	The acquisition of goods and services over the procurement lifecycle. Includes the development of strategies, issue of tenders, evaluation of suppliers, and approval.
Environmentally and Socially Positive	Aspects that result in a positive outcome for the environment and society and, in which the needs of the present are met without compromising the ability of future generations to meet their own needs (definition taken from ISO 24000 Sustainable Procurement).
Circular Economy	Economic system where waste and pollution are eliminated, products and materials are circulated (at their highest value) and nature is regenerated
Tender	Includes a price, bid, offer, quotation, consultant proposal or expression of interest lodged in response to an invitation or request for tender.

If you have any questions or require any clarification of any component of the Procurement Policy, please contact the Procurement Team at procurement@waverley.nsw.gov.au