PUBLIC EXHIBITION DOCUMENTS

3 May 2018 – 31 May 2018

Contact:
Kelly McGowan
02 4993 4100
Kelly.McGowan@cessnock.nsw.gov.au
Cessnock City Council
Procurement Policy

Date Adopted XX/XX/18 Revision: 6

Contents
1. Policy Objectives ........................................................................................................ 2
2. Policy Scope .................................................................................................................. 2
3. Policy Statement ........................................................................................................... 2
4. Principles For Procurement ....................................................................................... 2
   4.1. Responsible Financial Management .................................................................... 2
   4.2. Probity .................................................................................................................... 2
   4.3. Value For Money .................................................................................................... 3
   4.4. Sustainability Principles ....................................................................................... 3
5. Key Responsibilities ..................................................................................................... 4
6. Procurement Requirements ......................................................................................... 5
   6.1. Quotations ............................................................................................................. 5
   6.2. Tendering ............................................................................................................... 5
   6.3. Purchasing Methods ............................................................................................. 6
7. Probity ........................................................................................................................... 7
   7.1. Conflict Of Interest ............................................................................................. 7
   7.2. Prohibition Of ‘Bid Shopping .............................................................................. 7
   7.3. Business Ethics ..................................................................................................... 7
   7.4. Improper Advantage And Anti-Competitive Practices ........................................ 7
   7.5. Inhouse Tendering ............................................................................................... 7
8. Record Keeping ............................................................................................................ 7
9. Delegations .................................................................................................................... 7
10. Policy Definitions ......................................................................................................... 8
11. Policy Administration ................................................................................................. 9
12. Policy History ............................................................................................................ 9
1. Policy Objectives

The objective of this policy is to;

- Establish principles to ensure the most cost effective and efficient methods are used in the procurement of goods, works and services.
- To ensure Council Officials are aware of their responsibilities when undertaking procurement activities.
- To ensure that Council is conducting its procurement activities in a socially, economic and environmentally sustainable way that provides value for money and the best possible outcomes for the community and the environment in accordance with the Community Strategic Plan.

2. Policy Scope

The policy applies to all procurement processes and activities undertaken by Council, including purchasing, ordering, obtaining quotations, tendering and contracting.

This policy also applies to entering into a contract or quotation, whether through a contract or quotation agreement and/or a purchase order. The process for entering into an agreement to procure goods, works or services and the subsequent purchasing activity is covered under the Procurement Guideline and Procurement Procedures.

3. Policy Statement

Council is committed to providing a procurement system that complies with the requirements of the Local Government Act (NSW) 1993 (in particular Section 55), the Local Government (General) Regulation 2005, industry and internal performance standards, and codes of practice. This Policy and associated procedures will commit to the following:

- Ensure the process is open, fair, transparent and consistent and in accordance with Council's Code of Conduct and all appropriate policies and procedures.
- Ensure audit advice and relevant Independent Commission Against Corruption recommendations (ICAC) are considered.
- Encourage competitive procurement of goods, works and services and maximise community value.
- Ensure that funds are spent effectively and economically by taking into account price and non-price factors.
- Ensure records are maintained of the procurement process to demonstrate value for money, probity and transparency.
- Ensure segregation of duties in the requisitioning, approval and payment functions.

4. Principles for Procurement

Throughout the procurement process, Council commits to the following principles;

4.1. 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.

4.2. PROBITY

Council expects suppliers to conduct their business with Council in an ethical manner. Suppliers should be aware that they may be subject to public scrutiny by such bodies as
ICAC, and equally be afforded protections under the *Public Interest Disclosure Act 1994* (PID Act).

Information in tenders and quotations, including the price, may be contained in the Council Agenda Paper, as well as on Council’s website and therefore be a public record in accordance with the *Government Information (Public Access) Act* (GIPA). Information relating to the actual assessment will be regarded as Commercial in Confidence and will be treated as confidential. However, the information may still be available for release.

### 4.3. VALUE FOR MONEY

Procurement activities are to be carried out on the basis of obtaining 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 whilst ensuring the scale is reflective of the needs of Council. This will ensure Council can receive the benefits of scale, enhance competition due to a more attractive proposition, whilst ensuring Council procures only what is required.

Council is committed to ensuring funds are spent effectively and economically by taking into account both cost and non-cost factors including:

- Contribution to the Community Strategic Plan and Council’s objectives.
- Non-cost factors such as fit for purpose, quality, after sales service and support, sustainability principles, safety, availability and delivery time.
- Cost-related factors including whole-of-life costs and transaction costs associated with the purchase, utilisation, maintaining and disposal of the goods, services and materials.
- Council may elect not to accept any tenders and consider not proceeding, re-tendering or negotiating if it is in the best interest of Council.

### 4.4. SUSTAINABILITY PRINCIPLES

Council will apply the principles of quadruple bottom line, including the principles of Ecologically Sustainable Development (ESD) and good governance through sustainable purchasing. Relevant quadruple bottom line criteria will be reflected as part of the evaluation criteria. By making sustainable purchasing decisions, Council is operating in accordance with the Council’s charter as defined in Chapter 3 Section 8 of the *Local Government Act 1993*.

#### 4.4.1. Economic Considerations

Council will incorporate ‘whole of life’ costing into procurement decisions, looking beyond purchase to maintenance, operation and disposal costs. It will minimise the number of purchase orders raised, taking into account choice of products, packaging, handling, spoilage, quality control, sustainable materials, availability for recycling and disposal.

#### 4.4.2. Local Preference

Best value for money does not always mean lowest price. Council’s functions contribute to the economic success of the Local Government Area and Council expends considerable amounts annually on local economic development. Council prefers to buy from local suppliers and contractors where possible, as this supports Council’s local economic development initiatives.

#### 4.4.3. Aboriginal and Torres Strait Islander Suppliers

Council will provide direct and indirect procurement opportunities to Aboriginal and Torres Strait Islander Suppliers of goods and services locally. This commitment is aligned with current Commonwealth and State Government legislation to increase the use of Aboriginal and Torres Strait Islander Suppliers which has a direct positive impact on Aboriginal and
Torres Strait Islander business growth and employment. Council has access to a database of eligible Aboriginal and Torres Strait Islander suppliers through Mandurah Hunter Indigenous Business Chamber and the NSW Indigenous Chamber of Commerce. Council will explore opportunities to add Aboriginal and Torres Strait Islander Suppliers to Councils panel contracts and explore opportunities to support the capacity of Aboriginal and Torres Strait Islander Suppliers.

4.4.4. Environmental Considerations
Council will identify the environmental opportunities, risks and impacts of Council’s procurement decisions.

Where appropriate procurement decisions should incorporate principles of environmental sustainability, such as:

- Eliminate inefficiency and unnecessary expenditure
- Minimise waste
- Save water and energy
- Further stimulate the demand for sustainable products; and
- Play a leadership role in advancing long term social and environmental sustainability.

4.4.5. Governance Considerations
Council will actively seek efficiency and effectiveness in the procurement process, minimising costs to Council, suppliers and service providers. Council will act in the public interest by ensuring payments are made on time, in accordance with agreements or Council Policy.

4.4.6. Work Health and Safety and Risk Management
Council’s Risk Management Framework provides the foundation for integration of risk management into all Council’s policies, processes and activities and is based on the Australian and International Risk Management Standard AS/NZS ISO 31000:2009.

Procurement practices will be subject to periodic review and assessment by the respective risk owner and by Council’s internal auditor.

Procurement decisions and controls should be guided by an assessment of the risk-weighted consequences of various options.

5. Key Responsibilities

5.1. COUNCIL OFFICIALS

5.1.1. Employees and Volunteers

- To ensure any procurement activities for which Council is responsible for are undertaken in accordance with this policy and associated procedures.
- Only participate in the tendering process if you have delegated authority to do so.
- To report any suspected breaches of the policy.
- To set an example by complying with this policy and associated procedures in relation to all procurement activities.

5.1.2. General Manager

- To lead Council in their understanding of and compliance with this policy and associated procedures and principles.
- To provide resources to develop, implement and review this Policy and Procedures.
- To communicate and enforce the principles of the policy and associated guideline and procedures.
5.1.3. Mayor

- To lead Councillors in their understanding of and compliance with this policy and associated guidelines and procedures.

5.2. SUPPLIERS

- Conduct business with Council in an ethical manner.
- Comply with all work health and safety requirements.
- Must not lobby Council or seek favour/advantage during procurement activities.

6. PROCUREMENT REQUIREMENTS

The table below outlines the appropriate procurement process based on the approximate value of the contract or goods, works or services required.

<table>
<thead>
<tr>
<th>Purchase Value (Inc. GST)</th>
<th>Minimum</th>
<th>Quotation Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00 to $8,000</td>
<td>1 x quote</td>
<td>Minimum of 1 quote. Preferably written quotation, verbal accepted as per specification in document.</td>
</tr>
<tr>
<td>$8,001 to $20,000</td>
<td>2 x written quotations with specification.</td>
<td>Written quotation</td>
</tr>
<tr>
<td>$20,001 to $150,000</td>
<td>3 x written quotations with specification. (Selected or EOI)</td>
<td>Written quotation EOI – Written quotation, as specified in the document.</td>
</tr>
<tr>
<td>$150,001 and above</td>
<td>Prescribed agency purchase or Tender in accordance with the Act and Regulations.</td>
<td>Formal Tender Process - as specified in the document.</td>
</tr>
</tbody>
</table>

6.1. 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 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.

6.2. TENDERING

Tenders will be called in accordance with Section 55 of The Local Government Act 1993, The Local Government (General) Regulation 2005, the NSW Office of Local Government Tendering Guidelines and Procedures approved by the General Manager.

Whilst a formal tendering process is not required for purchases under $150,000, 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 $150,000.
- 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.

6.2.1. Prescribed Agencies

Section 55 of the Local Government Act provides Council with an exemption from the requirement to call tenders for the provision of goods, materials and services worth more
than $150,000 where such items are available under contract by prescribed authorities. Council will support the use of prescribed agency contracts where considered appropriate.

6.2.2. Local Government Supplier Contracts
Local Government Procurement undertakes group tenders on behalf of NSW Councils to obtain competitive contracts. Council may utilise these supply arrangements to procure goods and services.

6.2.3. Regional Procurement Incentives
Council will support the use of regional tenders and agreements for the acquisition/or sale of goods, and services under the Regional Procurement Initiative® a division of Strategic Services Australia Pty Ltd where considered appropriate.

6.2.4. Australian Procurement
Council will support the use of Australian Procurement tenders and agreements for the acquisition or sale of goods, and services where considered appropriate.

6.3. PURCHASING METHODS

6.3.1. Purchase Orders
Council will always issue a purchase order number for approved purchases. Suppliers are expected to cooperate by quoting the purchase order number on invoices. Council may not pay invoices where an approved purchase order number is absent.

Purchase order variations will need to be approved by Council Official with the appropriate delegated authority.

Invoices which exceed the goods receipt by more than 10% will be returned to the appropriate Council Official for further approvals under their sub delegations.

Goods and/or Services that may be exempt from requiring a purchase order include, but not limited to;

- Statutory Payments
- payments of utilities
- employee Reimbursements
- loans and investments
- payments relating to mayoral donations, fundraising payments and grants; and
- maintenance activities for buildings and / or facilities owned by Council.

6.3.2. Petty Cash
Petty cash will be used to meet the need for the procurement of small incidental goods and urgent situations. Payment method of petty cash purchases shall be by Cash or Electronic Funds Transfer and will be at the discretion of the Finance Team.

6.3.3. Credit Cards
The use of corporate credit cards must be done in accordance with the terms and conditions of Council’s Corporate Credit Card Protocol.

6.3.4. Fuel Cards
The use of Council fuel cards will only be used for the purchase of fuel for Council vehicles.

6.3.5. Fleet, Plant and Equipment
The procurement of plant and equipment is based on a plant replacement program and is to be undertaken in accordance with this Policy and in accordance with Council’s plant and equipment procedures.
The procurement of passenger vehicles will be undertaken in accordance with this Procurement Policy.

7. Probity

7.1. CONFLICT OF INTEREST

Under the Code of Conduct, all Council Officials have an obligation to disclose potential or actual conflict of interests.

Any declared potential or actual conflict of interest in a contract, must be declared and managed in accordance with the Code of Conduct. Individuals and advisors may be removed from involvement in the process where the conflict cannot be otherwise managed.

7.2. PROHIBITION OF ‘BID SHOPPING’

Council shall not use quotation solicitation / negotiations as an opportunity to trade-off tenderer or quotation prices against other suppliers prices in order to obtain lower prices. This practice, known as ‘bid shopping’, is prohibited. Council can however negotiate solely with the vendor that provided the strongest bid.

Council may elect via resolution to reject all the submissions and negotiate with the preferred tenderer should Council deem it appropriate.

7.3. BUSINESS ETHICS

Council shall at all times follow the key principles and requirements set out in Council’s Statement of Business Ethics.

7.4. IMPROPER ADVANTAGE AND ANTI-COMPETITIVE PRACTICES

Canvassing of Council Officials (other than Council’s nominated contact Project Officer specified for the tender process) at any stage of the tender process will be deemed an unacceptable practice and will result in the applicant being disqualified.

Tenderers cannot be involved in defining the need, specifications, evaluation criteria or estimates of the contract or quotation.

7.5. INHOUSE TENDERING

In the event of a Council business unit lodging an in-house tender submission, as part of an open tender process, the relevant Business Unit Manager and Director shall, prior to the commencement of the tender process;

- Separate and clearly define the roles of Council undertaking the tender submission from those undertaking the tender preparation and assessment;
- establish separate chains of management decision-making and reporting for those involved; and
- The in-house tender will be treated as if it is an external tender to ensure all tenders are treated consistently. The policy will be applied accordingly.

8. Record Keeping

Council Officials must ensure that appropriate procurement records are kept and maintained in accordance with the Council’s Records Management Policy.

9. Delegations

All Council Officials must only undertake procurement responsibilities within their limits of Financial Authorisation as delegated by the General Manager.
If the official is unsure as to whether a financial commitment or expenditure is appropriate for their Financial Authorisation, the commitment or expenditure should be escalated to their Business Unit Manager/Director for approval.

Procurement must not involve order splitting (or job splitting) to avoid legislative or procurement process requirements.

10. **Policy Definitions**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Council</strong></td>
<td>Cessnock City Council</td>
</tr>
<tr>
<td><strong>Council Officials</strong></td>
<td>General Manager, Mayor, Councillors, employees, and volunteers.</td>
</tr>
<tr>
<td><strong>Consultant</strong></td>
<td>A person or entity engaged to provide advice and or designs where Council relies on the advice or designs in its decision making and where Council might incur a loss if the advice or design contains errors or omissions or where the consultant is otherwise negligent.</td>
</tr>
<tr>
<td><strong>Contract</strong></td>
<td>A legally binding agreement between two or more parties that creates obligations on each party that is enforceable by law</td>
</tr>
<tr>
<td><strong>Financial Authorisation</strong></td>
<td>Council’s Register of Financial Authorisations, which lists the relevant financial authority limits delegated to each individual.</td>
</tr>
<tr>
<td><strong>Procurement</strong></td>
<td>The act of obtaining or purchasing goods, works or services. Procurement activities include tendering (quoting), tender assessment, requisitioning/ordering, contract management, as well as the end receipt and approval of payment.</td>
</tr>
<tr>
<td><strong>Project Officer</strong></td>
<td>The Council Official responsible for the project.</td>
</tr>
<tr>
<td><strong>Purchase Order</strong></td>
<td>The authority to the supplier to supply and invoice items called for at the prices shown under Council’s purchase conditions imposed. The purchase order is a legal and binding contractual agreement.</td>
</tr>
<tr>
<td><strong>Quotation</strong></td>
<td>Any offer including verbal pricing, bids and consultant proposals for projects under $150,000 and containing any requested information and accompanying documentation.</td>
</tr>
<tr>
<td><strong>Tender</strong></td>
<td>A formal offer received via tender process to provide goods, works or services for or on behalf of Council in response to a Council Request For Tender (RFT) for values &gt;$150,000 (including GST).</td>
</tr>
</tbody>
</table>
11. Policy Administration

<table>
<thead>
<tr>
<th>Business Group:</th>
<th>Finance and Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Officer:</td>
<td>Finance and Administration Manager</td>
</tr>
<tr>
<td>Policy Review Date:</td>
<td>2021</td>
</tr>
<tr>
<td>Document Number:</td>
<td>DOC2018/004175</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Relevant Legislation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Local Government Act 1993</td>
</tr>
<tr>
<td>• Local Government (General) Regulations 2005</td>
</tr>
<tr>
<td>• Public Interest Disclosure Act 1994</td>
</tr>
<tr>
<td>• NSW Government – Code of Practice for Procurement 2005</td>
</tr>
<tr>
<td>• Work Health and Safety Management Systems and Auditing Guidelines 2013</td>
</tr>
<tr>
<td>• NSW Government Environmental Management System Guidelines 2013</td>
</tr>
<tr>
<td>• Government Information (Public Access) Act (NSW) 2009</td>
</tr>
<tr>
<td>• Competition &amp; Consumer Act 2010</td>
</tr>
<tr>
<td>• ISO 9001:2015 – Quality Management Systems</td>
</tr>
<tr>
<td>• ISO 14001:2015 – Environment Management System</td>
</tr>
<tr>
<td>• ISO 45001:2018 – Occupational Health and Safety Management Systems</td>
</tr>
<tr>
<td>• AS 4801:2001 WH&amp;S Management Systems</td>
</tr>
<tr>
<td>• AS/NZS ISO 31000:2009 – Risk Management</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Related Policies / Protocols / Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Code of Conduct</td>
</tr>
<tr>
<td>• Statement of Business Ethics</td>
</tr>
<tr>
<td>• Risk Management Policy</td>
</tr>
<tr>
<td>• CCC Fraud and Corruption Control Strategy</td>
</tr>
<tr>
<td>• Procurement Guideline and Procedures</td>
</tr>
<tr>
<td>• Disposal Procedures</td>
</tr>
<tr>
<td>• Corporate Credit Card Protocol</td>
</tr>
<tr>
<td>• SP 3.8 WH&amp;S Procurement</td>
</tr>
<tr>
<td>• Public Information Access Policy (GIPA)</td>
</tr>
<tr>
<td>• Records Management Policy</td>
</tr>
</tbody>
</table>

12. Policy History

<table>
<thead>
<tr>
<th>Revision</th>
<th>Date Approved / Authority</th>
<th>Description Of Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>16 January 2018</td>
<td>Periodic review</td>
</tr>
<tr>
<td>3</td>
<td>6 November 2013</td>
<td>New policy adopted</td>
</tr>
<tr>
<td>2</td>
<td>18 September 2013</td>
<td>Periodic review</td>
</tr>
<tr>
<td>1</td>
<td>24 March 2010</td>
<td>New policy adopted</td>
</tr>
</tbody>
</table>