

Policy title	Procurement
Responsible manager(s)	Divisional Manager Governance and Administrative Services
Contact officer(s)	Fleet and Procurement Coordinator
Directorate	Corporate and Commercial Services
Approval date	9 August 2022
Outcome area	5 Our engaged community with progressive leadership
Strategy	5.3 Work together to achieve our collective vision
Delivery Program link	5.3.3 Provide effective and professional administration, technical and trade services to support the delivery of services to the community
Operational Plan link	5.3.3.2 Undertake procurement that provides best value to the community

Purpose

To ensure principles of value for money, efficiency, ethics, and fair dealing are maintained in the procurement of goods and services by Eurobodalla Shire Council.

The policy requires an emphasis on a planned, risk considerate approach to the purchase of goods and services through achieving:

- High levels of customer service;
- Accurate determination of the requirement;
- Minimisation and mitigation of risks;
- Efficient use of Council resources;
- Open and effective competition;
- Ethics and fair dealing; and
- Accountability and transparency.

Policy aims

- Assist decision-makers to exercise discretionary powers in relation to procurement;
- Promote an integrated framework for dealing with suppliers;
- Ensure transparency, consistency and fairness in the manner in which Council deals with suppliers and contractors;
- Ensure compliance with legislative requirements under the *Local Government Act 1993*;
- Promote awareness of the requirements of the Act with respect to purchasing and probity;
- Take such steps as are appropriate to ensure probity and accountability; and
- Make Council's policies and requirements for procurement readily accessible and understandable to the public.

Policy details

1	Application This policy applies to all procurement undertaken by, or on behalf of Eurobodalla Shire Council and requires that careful consideration of risk is undertaken in all purchases, relevant to the size, nature, and complexity of the requirement. The principles detailed
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	<p>within this policy apply also to the disposal of Council goods, property, and the sale of land.</p>
2	<p>Legislation</p> <p>All activities subject to this policy are to be undertaken in accord with the <i>Local Government Act 1993</i> and Council's finance/procurement delegation framework, <i>Local Government (General) Regulation 2021</i>, Office of Local Government (OLG) <i>Tendering Guidelines for NSW Local Government</i>, and all applicable Local, Federal, and State legislation.</p>
3	<p>Terms and Conditions</p> <p>This policy should be read in conjunction with Council's Procurement (including tendering) Code of Practice and the WHS policy.</p>
4	<p>High levels of customer service</p> <p>A primary goal of all Council activities is to deliver a high level of customer service to both external and internal stakeholders. Adequate consideration shall be given to the provision of customer service in the procurement of goods, services, and projects.</p>
5	<p>Accurate determination of the requirement</p> <p>Before commencing a procurement activity, consideration should be given to:</p> <ul style="list-style-type: none"> • fitness for purpose; • minimisation and mitigation of risks; • the estimated cost of the requirement; • environmental sustainability; and • social impacts.
6	<p>Minimisation and mitigation of risks</p> <p>Adequate WHS and environmental risk assessments must be conducted for all procurement activities, carefully considering:</p> <ul style="list-style-type: none"> • any potential hazards that may be associated with the required goods or provision of services; • the likelihood of any hazards or risks identified; • the impact or consequence for each risk or hazard identified; and • any controls or strategies appropriate for the mitigation of hazards or risks identified. <p>Other risks such as quality management, financial, impacts to service delivery/availability, impacts on the community and reputational risks should also be addressed commensurate to the scale and nature of the goods, project or service being procured.</p>
7	<p>Efficient use of Council resources</p> <p>Before commencing any procurement activity consideration should be made to:</p> <ul style="list-style-type: none"> • availability and source of funding; • any alternative sources of funding (e.g. grants and partnerships) that may be available;

	<ul style="list-style-type: none"> • using any government contracts standing offers or other established purchasing agreements available to NSW Local Government organisations; • seeking strategic alliances in the delivery of services, where appropriate and forming partnerships with other Local Governments, Government agencies and the private sector; • Whole-of-Life (WOL) cost factors associated with goods including maintainability, commonality of spares, technical support, operating costs, Net Present Value (NPV) and estimated income from sale; and • method and risks associated with disposal.
<p>8</p>	<p>Open and effective competition</p> <p>To ensure value for money is achieved Council should:</p> <ul style="list-style-type: none"> • conduct appropriate market testing for the cost, nature and level of complexity of the purchase; • develop a sound evaluation criteria that is clearly communicated within the tender; • select the lowest-priced, compliant offer provided it is fit for purpose and can be delivered in the time required, unless other reasonable factors are clearly communicated to the bidding party in the evaluation criteria; and • seek offers from both local and non-local sources. <p>Council will comply with the <i>Local Government Act 1993</i> (the Act). Section 55 of the Act sets out the circumstances where tendering is required. When conducting tendering exercises, Council must adhere to the Office of Local Government (OLG) <i>Tendering Guidelines for NSW Local Government</i> including:</p> <ul style="list-style-type: none"> • adhering to the open tendering threshold of \$250,000 (incl. GST), as mandated under section 3.1 of the guidelines; • developing tender specifications that discourage bias, encourage innovation and alternative solutions, reduce administrative burden, minimise market pressure on suppliers and improve environmental performance; • developing a sound evaluation criteria that is clearly communicated within the tender; and • In the event of goods or services being required in an emergency, application should be made to fast-track or bypass competitive pricing or any other regulative procedures that may exacerbate the situation (noting the provisions of section 55 (3) (k) of the Local Government Act 1993). <p>Council shall publish a copy of the contract register on the Council’s website as required under Section 35 of the <i>Government Information Public Access Act 2009</i> (GIPA Act).</p>
<p>9</p>	<p>Ethics and fair dealing;</p> <p>In order to achieve ethical and fair procurement practices, Council will:</p> <ul style="list-style-type: none"> • maintain principles of probity including fairness, honesty, integrity and professionalism; • insist on suppliers meeting the same level of ethical standards as its own; • ensure an appropriate number of sources are chosen relative to the value of the purchase and the size and nature of the industry; • not split requirements for the purpose of avoiding statutory or other mandatory government purchasing requirements;

	<ul style="list-style-type: none"> not conduct procurement activities for any requirements other than those relating to Council business; identify and report any pecuniary or non-pecuniary interests without delay, in accordance with Council’s Code of Conduct; maintain the confidentiality of commercially sensitive information, unless agreed to under terms and conditions with the supplier/provider; approach potential market sources with consistent information; and foster and encourage equal opportunity and diversity.
10	<p>Accountability and transparency</p> <p>Council will ensure that the process for awarding contracts is open to scrutiny, clear, fully documented, and defensible. Tenders and other competitive processes will be based on clearly articulated evaluation criteria, consistent with the legislative and policy framework.</p> <p>A clear audit trail will be maintained for each purchase and records will be kept for 7 years from the date of the activity unless otherwise stated with in the NSW</p>

Implementation

Requirements		Responsibility
1	<p>Code of Practice</p> <p>This policy will be implemented by following Council’s Procurement (including tendering) Code of Practice.</p>	All staff
2	<p>Staff</p> <p>Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p>	Council officers
3	<p>Concerns and requests</p> <p>Public concerns communicated to Council regarding this policy will be recorded on Council’s Enterprise Content Management system and handled in accordance with Council’s Customer Requests Management Procedure or Complaints Policy so concerns can be responded to.</p>	Council officers Public officer
5	<p>Consultation</p> <p>Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other agencies, relevant legislation, industry guidelines, and public comment. Proposed substantive changes to this policy will be placed on public exhibition. Public submissions regarding this policy are invited for consideration during the policy exhibition period.</p>	As required

Review

This policy will be reviewed at minimum every 4 years. It may also be reviewed and updated as necessary when legislation requires it; or council’s functions, structure or activities change; or when technological advances or new systems change the way that Council manages Procurement.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. **Note:** *The next general local government election is expected to be held in September 2024.*

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Customer Concerns	Council records
Customer Feedback Survey Responses	Surveys
Internal or external review	Audit

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
Local Government (General) Regulation 2021	Local Government (General) Regulation 2021 - NSW Legislation
Tendering Guidelines for NSW Local Government	www.olg.nsw.gov.au/sites/default/files/Tendering-Guidelines-for-NSW-Local-Government.pdf
GA39 Local Government Records Authority	http://arp.nsw.gov.au/node/319
Procurement (including tendering) Code of Practice	Council Policies and Codes of Practice
Disposal of Council Property Code of Practice	Council Policies and Codes of Practice
Sale of Land Code of Practice	Council Policies and Codes of Practice

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
State Records	www.records.nsw.gov.au

Definitions

Word/Term	Definition
Fitness for purpose	Suitability of goods and/or services for the desired Council outcome including consideration of performance, cost, safety and the “triple bottom line”.
Procurement	The whole process associated with obtaining goods or services, from determination of the requirement to acceptance of, and payment for the contract deliverable(s).
Tender specification	A list of the specific requirements associated with a requirement for goods or services including technical elements (functional or performance based), administrative and statutory requirements.

Timeliness	Consideration of external factors or events which may affect, or be affected by, the procurement activity being conducted. Such factors include, however are not limited to, user deadlines, interrelationships with other Council projects, advantageous market conditions and savings that can be achieved through bulk purchases.
Triple bottom line	Consideration of cost, social and environmental impacts in decision-making.
Value for money	A concept which requires careful and objective consideration of all value factors as inputs to the procurement decision, including competitiveness of the market, fitness for purpose and timeliness.

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	27 Jun 2006	Council	06/139	05.9513	policy replaced; "Tendering and Purchasing Policy" number 4.9, policy number 4.2 "ASSET - Asset Acquisition" and any former policies related to asset disposal, "Tendering policy" (adopted 28 February 2006, Minute No 06/32).
2	10 Sep 2013	Council	13/280	E13.7095	Policy reviewed and retained.
3	July 2015	-	-	E06.0375	Minor referencing updates only - no substantial change (did not need Council re-adoption)
4	25 Jul 2017	Council	17/248	E05.9513 E16.0297	Minor review, inserting "social impact" as an element of requirements determination and noting that the tendering threshold is GST inclusive.
5	9 Aug 22	Council	22/191	E05.9513 E16.0297	Reviewed and updated (start of new Council term) Report GMR22/081

Internal use

Responsible officer	Director Corporate and Commercial Services		Approved by	Council	
Minute	22/191	Report	GMR22/081	Effective date	9 August 2022
File	E05.9513 E16.0297	Review date	Jun 2022	Pages	6