

DATE: 19 JULY 2019

TO: All Staff

FROM: David Evans, General Manager

SUBJECT: Tender threshold

MESSAGE:

Recent amendments to the *Local Government Act 1993* have increased the value of a contract at or above which a council is required to invite tenders to \$250,000.00.

Section 55(3)(n) of the *Local Government Act 1993* now provides that the tendering requirements do not apply to:

... a contract involving an estimated expenditure or receipt of an amount of:

- (i) less than \$250,000 or another amount as may be prescribed by the regulations, or
- (ii) less than \$150,000 or another amount as may be prescribed by the regulations for a contract involving the provision of services where those services are, at the time of entering the contract, being provided by employees of the council,

The provisions of the *Local Government Act 1993* take precedence over Council's Procurement Policy. Accordingly, the appropriate procurement process to be adopted is now as follows:

Purchase Value (Inc. GST)	Process	Quotation Type
\$0 - \$5,000	Purchase Order / Credit Card	Not Applicable
\$5,000 - \$24,999	1 Formal quote	Written quotation
\$25,000 - \$49,999	2 x Formal Quotes with specification	Written quotation
\$50,000 - \$249,999**	3 x Formal Quotes with specification (Selected / Open)	Selected- written quotation Open- written quotation, as specified in the documentation.
\$150,000 and above (for services previously provided by Council employees)	<i>Local Government Act 1993</i> (NSW)	Formal Tender Process
\$250,000 and above	<i>Local Government Act 1993</i> (NSW)	Formal Tender Process

** except in relation to services previously provided by Council employees



David Evans
General Manager



DATE ADOPTED: 25 November 2014

VERSION: 2.0

POLICY OBJECTIVES

The objective of this policy is to establish guidelines to ensure the most cost effective and efficient methods are used in the procurement of goods, works and services.

This policy reinforces the principle that the maintenance of comprehensive and well documented records is crucial to ensuring that value for money has been obtained and that the procurement process has been conducted with probity and transparency.

POLICY SCOPE

This policy applies to anyone who undertakes or is involved in procurement activities; this includes Councillors, staff and delegates.

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

POLICY STATEMENT

Throughout the procurement process, Council will:

- Ensure the process is open, fair, transparent and consistent and in accordance with Council's Code of Conduct and all other policies and procedures as appropriate.
- Comply with the requirements of the Local Government Act (NSW) 1993 and Regulations.
- 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 (such as after sales service, warranty, safety, environmental, repair costs, spare parts, etc.), i.e. Value for Money
- Ensure segregation of duties in the requisitioning, approval and payment functions.

1. Principles for Procurement

1.1. Ethical Principles

Council staff are at all times required to conduct business that is ethical and of the highest integrity. This includes the following principles:

Legislation	All procurement activities must comply with legal obligations including the requirements of the NSW Local Government Act 1993 and Local Government (General) Regulation 2005 as well as the Competition and Consumer Act 2010.
Honesty and fairness	Council officials must conduct all procurement with honesty, fairness and

	probity and must not disclose any confidential information.
Accountability and transparency	All procurement activities are undertaken through a process that is open, clear and documented
Consistency	Consistency is maintained throughout all stages of the procurement process
Declaration of conflicts of interest	Any conflicts of interest (actual or potential) during the procurement process must be declared and managed. For information regarding conflicts of interest, refer to the Maitland City Council Code of Conduct.
No anti-competitive practices	Council officials must not engage in practices that are anti-competitive or engage in any form of collusive practice.
No improper advantage	Council officials must not engage in practices that aim to give any supplier an advantage over other suppliers.
Intention to proceed	the procurement process must be undertaken with an intention to proceed with the purchase including having funding available for the purchase.
Cooperation	Council officials must encourage business relationships based on open and effective communication, respect and trust.

1.2 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.

1.3 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 and ensuring that the process provides real competition.

Maitland City Council is committed to ensuring funds are spent effectively and economically by taking into account price and non-price factors. Non-price factors may include:

- Quality
- Reliability and reputation of supplier
- Availability and delivery time
- After sales service
- Warranty
- Safety
- Trading terms and discounts
- Whole of life cost of the goods and services
- Sustainability principles



1.4 Sustainability

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
- Play a leadership role in advancing long term social and environmental sustainability.

2. KEY RESPONSIBILITIES

2.1 Council Staff

- To ensure any procurement activities for which the staff member 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.

2.2 Managers and Executive Managers

- To set an example for staff by complying with this policy and associated procedures in relation to all procurement activities.
- To communicate and enforce the principles of the policy and associated procedures to staff.

2.3 General Manager

- To lead staff in their understanding of, and compliance with, this policy and associated procedures.
- To approve resources to develop, implement and review this Policy and Procedures.

2.4 Mayor

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

2.5 Suppliers

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

3. PROCUREMENT REQUIREMENTS

The Project Manager is responsible for initiating the appropriate procurement process based on the approximate value of the contract or goods, works or services required. (See Table 1 below).

The General Manager has discretion to vary the process in writing as required (up to \$149,999).

Table 1- Procurement Requirements

Purchase Value (Inc. GST)	Process	Quotation Type
\$0 - \$5,000	Purchase Order / Credit Card	Not Applicable
\$5,000 - \$24,999	1 Formal quote	Written quotation
\$25,000 - \$49,999	2 x Formal Quotes with specification	Written quotation
\$50,000 - \$149,999	3 x Formal Quotes with specification (Selected / Open)	Selected- written quotation Open- written quotation, as specified in the documentation.
\$150,000 and above	Local Government Act (NSW) 1993	Formal Tender Process

3.1 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.

3.2 Tendering

All Tenders will be conducted in accordance with Section 55 of the Local Government Act (NSW) 1993 and the NSW Office of Local Government Tendering Guidelines.

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

3.3 Purchase of media / advertising

The purchase of paid media / advertising will be undertaken in accordance with this policy as well as Maitland City Council's Media Guide.

3.4 Local Government Procurement Contracts

Local Government Procurement undertakes group tenders on behalf of NSW Councils to obtain competitive contracts. Maitland City Council may utilize these supply arrangements to procure goods and services.

4. PURCHASING METHODS

4.1 Petty Cash

Petty cash will be used to meet the need for the procurement of small incidental goods and urgent situations and is limited to \$100 per transaction.

4.2 Credit Cards

The use of corporate credit cards must be done in accordance with the Council's Credit Card Protocol.

4.3 Fuel Cards

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

4.4 Purchase Orders

Where possible all purchases will require a purchase order to be generated in Council's purchase order system. This will allow Council to adequately reconcile goods ordered with goods received; monitor ordering approvals as well as monitoring Council cash flow.

4.5 Plant and Equipment

The procurement of plant and equipment is based on a fifteen (15) year plant replacement program which is approved by Council and is to be undertaken in accordance with this Policy and in accordance with Council's Plant and Equipment Replacement Policy.

4.6 Passenger Vehicles

The procurement of passenger vehicles will be undertaken in accordance with this Procurement Policy.

POLICY DEFINITIONS

Appropriate Person:	In relation to a tender submitted to a Council, means a person designated by the General Manager to receive or deal with tenders submitted to the Council and, if a person is not designated, means the General Manager.
Contract:	The written agreement between the Council (as the purchaser) and the Service Provider.
Council Officials:	General Manager, Mayor, Councillors, employees, and volunteers.
Procurement:	The acquisition of works, goods and services. Includes the evaluation of suppliers, preparation of purchase orders, receipt of goods / services, approval of payment.
Project Manager:	The requestor of the goods works or services.
Purchase Order:	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.
Quotation:	Any offer including verbal pricing, bids and consultant proposals for projects under \$150,000 and containing any requested information and accompanying documentation.
Tender:	Any offer for projects valued \$150,000 and over invited and administered in accordance with the Local Government Act and Regulation for tendering and containing any requested information and accompanying documentation.
Tender Panel:	A panel comprising the Project Officer and a minimum of two (2) other appropriate persons for the purpose of assessing and recommending tenders valued at \$150,000 and over.



POLICY ADMINISTRATION

BUSINESS GROUP: Corporate Services

RESPONSIBLE OFFICER: Executive Manager Corporate Services

COUNCIL REFERENCE: Ordinary Council Meeting 25 November 2014 – Item 10.2

POLICY REVIEW DATE: Three (3) years from date of adoption

FILE NUMBER: 35/1

RELEVANT LEGISLATION

- Local Government Act (NSW) 1993
- Local Government (General) Regulation (NSW) 2005
- Government Information (Public Access) Act (NSW) 2009
- Competition & Consumer Act 2010

RELATED POLICIES / PROCEDURES / PROTOCOLS

- Code of Conduct
- Credit Card Protocol
- Fraud Control Policy
- Plant and Equipment – Replacement Policy
- Procurement and Purchasing Procedure
- Project Management Manual
- Public Interest Disclosures Internal Reporting Policy
- Right to Information Policy
- Media Guide

POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	14 June 2005	New policy adopted
2.0	25 November 2014	Periodic review

