



Edward River
COUNCIL

PROCUREMENT POLICY

1. Scope

This Policy applies to all procurement activities at Edward River Council (Council) and is binding upon all Councillors, staff, contractors, and consultants while participating in the Procurement of goods and/or services on behalf of Council.

2. Purpose

The purpose of this Policy is to define the principles to which Council will conduct itself during Procurement activities ensuring compliance with the Local Government Act 1993 (the Act), Local Government (General) Regulation 2021 (the Regulation) and other relevant legislation applicable to procurement and tendering of goods and services.

3. Definitions

Procurement includes the end-to-end activities related to purchasing goods and services such as identifying the need, planning, awarding, contract management and disposal. Establishing a procurement framework allows Council to establish processes for consistent and effective delivery of services whilst demonstrating value for money to the community.

Purchasing means the actual purchasing of goods and services.

Value for Money as detailed by the Tendering Guidelines for NSW Local Government, value for money is determined by considering all the factors that are relevant to the proposed procurement and may include: experience, quality, reliability, timeliness, service, risk profiles plus initial, ongoing and disposal costs. These are all factors that can make a significant impact on benefits and costs. Value for money does not automatically mean the 'lowest price'. Value for money is a comparison of the apparent benefits of the proposed procurement activity with the whole-of-life costs.

Council Officials/Officers can include Councillors, Council employees, administrators, Council committee members, conduct reviewers and delegates of Council.

Conflict of Interest may exist where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty.

Local Supplier is defined as a supplier with a business/registered office within Councils' Local Government Area (LGA) and/or has a place of business within the Council LGA which primarily employs residents or ratepayers within the Council LGA.

4. Relevant legislation and associated documents

Local Government Act 1993

Local Government (General) Regulation 2021

(The requirements for tendering are prescribed under section 55 of the Act and in Part 7 of the Regulation).

Modern Slavery Act 2018

Independent Commission Against Corruption Act 1988

Government Information (Public Access) Act 2009

Competition and Consumer Act 2010 (Cth) and the Fair-Trading Act 1987 (NSW)

Associated documents

Code of Conduct

Business Ethics

Office of Local Government Tendering Guidelines for NSW Local Government.

Council guidelines, procedures, and work instructions

Council Delegations of Authority.

Corporate Credit Card Policy

5. Policy Statement

Council is committed to ensuring that all procurement activities are undertaken in a robust and systematic manner that is consistent with its legal and ethical obligations.

Council will ensure value for money through a balanced whole-of-life evaluation that includes consideration of financial, social, ethical, local economic and environmental factors.

Council will deliver on our commitment to procurement that meets operational requirements and achieves the highest commercial and sustainable outcomes through the application of the principles and objectives of this policy.

Only authorised persons may approve procurement of goods or services on behalf of Council. Council officers are authorised through instruments of delegation in accordance with *the Act*, as outlined in Council Delegations of Authority.

Modern Slavery is defined in the Modern Slavery Act 2018 (NSW) as any conduct constituting a Modern Slavery offence within the meaning of that Act and any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply chains of organisations.

Council recognises that **Modern Slavery** is a serious violation of an individual's dignity and human rights. Exploitative practices including human trafficking, slavery, servitude, forced labour, debt bondage and forced marriage are all considered modern slavery and are serious crimes under Australian law.

Council will not knowingly engage with suppliers engaged in **Modern Slavery** practices.

6. Guiding Principles

i. Value for money

The procurement method must be cost effective and efficient. Regard must be given to all relevant costs and benefits over the whole of life (total cost of ownership) from the sourcing of raw materials to disposal/recycling/remanufacturing of the goods or services being procured.

Demonstrating value for money does not necessarily mean selecting the lowest quoted price. Purchasing decisions will be assessed on a value for money basis whilst considering non-price factors for example fit for purpose, quality, timely delivery, service, and support. Value for money represents the best return and performance for total spend over the entire life of the good or service.

Value for money may consider broader objectives of Council in areas such as business and industry development, environmental protection, energy conservation and occupational health and safety.

ii. Probity, ethics, and fairness

Demonstrated application of open, fair, transparent, and ethical behaviour in procurement processes to encourage suppliers to work with Council.

Council Officials will act with honesty, integrity, diligence, and a high degree of care in their procurement processes.

Council will not knowingly enter into procurement processes with contractors or suppliers who demonstrate an inability to adhere to Council's values or who fail to meet the requirements of Council's policies, procedures, and associated documents.

Council's procurement will advance the interests of the Council and attain a high level of professionalism and creditability. Council strives to be fair by ensuring its processes are appropriate and demonstrates this by being open, transparent, and accountable.

It is Council's responsibility to give all prospective contractors and suppliers fair and equitable consideration to conduct business with Council. All prospective contractors and suppliers must be given equal access to information and equal opportunity to clarify what is being sought.

Council shall encourage and maintain competition by ensuring that there is minimal reliance on a single contractor or supplier where practical.

Council officials must avoid or appropriately manage any conflicts of interest and must refer to Council's Code of Conduct for guidance. A conflict of interest includes, but is not limited to, any pecuniary or non-pecuniary interests held by Council officials which may influence, or be seen to influence, the outcome of a procurement process.

iii. Accountability and transparency

Procurement activities are conducted in accordance with legislation and Council policies where all persons are responsible for the actions and decisions they take in relation to Procurement and for the resulting outcomes.

iv. Risk management

The principles of risk management are to be appropriately applied at all stages of Procurement activities, which will be properly planned and implemented in a manner that will protect and enhance Council's capability to prevent, withstand and recover any adverse consequence to Council.

v. Sustainability (social, economic, and environmental)

To support socially and ethically responsible procurement, Council will investigate the circumstances in which the goods and services are provided for Council use by establishing if contractors or suppliers promote socially and ethically responsible practices.

Sustainability includes maintaining and enhancing the community's quality of life, for both current and future generations, through a balance of economic viability, environmental conservation and restoration and community wellbeing. Council will assess proposals to determine commitment to environmental sustainability through whole of life considerations.

7. Objective

The objective of the Policy is to ensure that Council's procurement practices:

- make efficient and effective use of Council's and Council's supplier's resources;
- are compliant with legislation;
- improve the local amenities of our community and are socially responsible;
- foster local economic development and business sustainability through Procurement practices;
- support Australian markets for sustainable products and services;
- improve Council's on time payment record and cash management;
- ensure Council and its staff act within their delegations and are accountable for decision making in procurement.

8. Content

Tender and Quotation

All tender and quotation processes shall be conducted in accordance with the Act, the Regulation, this policy, associated guidelines and procedures, and applicable legislation.

Strategic Procurement

Council's procurement is based on the principles of Strategic Procurement. Planning for an individual procurement activity will include consideration of collaborative procurement opportunities accessing suppliers under existing contracts and analysis of alternative contract models.

Benefits to Council may be gained by joining with member Councils of the Riverina and Murray Joint Organisation (RAMJO) for a collaborative approach to market for procurement activities when consolidated are attractive to larger specialised organisations.

Exemptions

The following circumstances are exempt from the general tender, proposal, quotation and expression of interest requirements. Use of any exemption must be endorsed in accordance with the approved Financial Delegations.

Exemption Name	Explanation, Limitations, Responsibilities and Approvals
A contract made because of genuine emergency or hardship	Where the Council or CEO has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster) or where the NSW Government has declared a State of Emergency.
A contract made with, or a purchase from a contract made by another government entity, government-owned entity or other approved third party	This general exemption allows engagements with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government. Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Local Government Procurement (LGP) or National Procurement network members (e.g. Local Buy, Procurement Australia).
Traditional Owners	Engagement of Traditional Owners where the primary purpose of the procurement activity is to gather information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the Aboriginal Heritage Act
Exemption from Public Tendering	Where the contract is entered into in accordance with arrangements approved by the Minister, where Council must demonstrate to the Minister for Local Government that it is not a viable option to undertake a public tender
Extension of contracts while Council is at market	Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or have taken longer than expected. This exemption may be used when the establishment of an interim short-term arrangement is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality. Contract extensions applied during a procurement period should not exceed 6 months
Professional services unsuitable for tendering	Insurance, Legal Fees

Novated Contracts	Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party
Information technology resellers and software developers	Allows Council to renew software licenses, maintenance and support, or upgrade existing systems, (where a public tender was completed for the original contract) and there is only one supplier of the software, who holds the intellectual property rights to the software.
Utility Companies	When utility authorities are required to undertake work on their assets
Operating & Finance Leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to Council and assumes the residual value risk of the vehicle

Ad-hoc Exemptions from Procurement Requirements

Council has not determined any additional general exemptions to the quote and tender threshold beyond those detailed in this Policy.

If a Council officer is prevented from inviting the minimum number of quotations required (e.g. exclusive supplier, specialised good/service), they must document the facts and reasoning to support the deviation from Policy and demonstrate that it is the best interests of the community to do so.

All ad-hoc exemptions must be endorsed by the relevant Director and approved by the CEO or their designate. The CEO may direct, in some circumstances, that these ad-hoc exemptions be approved by Council.

Supporting Local Business

Council is committed to the development of competitive local business and industry seeking to create benefit for Council, local suppliers, and the Council economy through purchasing locally and using local suppliers where benefit exists to all. Therefore, beyond supplier performance, capacity, capability, quality, and experience; Council may examine where possible the business:

- head office is located and existence of sub-branch offices.
- the number of local jobs supported, or employment opportunities provided by the procurement activity.
- the use of local contractors, manufacturers, and supply chain directly relating to the procurement activity.
- percentage of local materials, local plant and equipment to be used, and
- any benefit that enhance economic growth for the region.

Supporting local business is supported with a preference weighting of 10% assigned to the criteria element where applicable of “benefit to the Edward River region” for tenders and quotations.

Council commits to educating local suppliers and Council staff about “Doing Business with Council”. This may include the establishment of preferred or pre-qualified supplier panels, education sessions working with Council and advertising future projects on Council’s website.

Corporate Purchase Cards

The following applies to the use of Corporate Purchase Cards issued to the Mayor, CEO, and designated Council employees in accordance with Corporate Credit Card Policy:

- Council is to maintain a register of Corporate Purchase Cards.

- All cards will have transaction limits and monthly spending limits.
- The cardholder is responsible for ensuring the security of the Purchase Card.
- The cardholder is responsible for keeping all transaction records, such as receipts to verify expenditure.
- All Corporate Purchase Card transactions must be authorised by the cardholder's manager or Director.
- Corporate Purchase Card spending will be audited by the Chief Finance Officer.

9. Governance

Council's Procurement activities shall be carried out to the professional standards required by best practice and in compliance with relevant legislation and Council's policies and procedures.

Conflict of Interest

Councillors and Council staff shall always avoid or appropriately manage situations in which private interests might reasonably be deemed to have the potential to conflict with their Council duties. All conflicts of interest must be managed in accordance with Council's Code of Conduct Policy. Councillors and Council staff involved in the procurement process **must** identify, declare and manage any **perceived, potential or actual** conflicts of interest in accordance with Council's Code of Conduct Policy.

Gifts and Hospitality

All Councillors and Council staff must adhere to Council's Code of Conduct Policy which covers gifts, benefits, and hospitality. Staff must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from them or from the Council, through the provision of gifts, benefits, or hospitality of any kind to staff or someone personally associated with a staff member.

Procurement Thresholds

Procurement thresholds are contained in the Procurement Guide and set out the financial quote restrictions for undertaking any Procurement. The NSW Tendering Guidelines for NSW Local Government 2009 apply.

Information disclosure

Information received by the Council that is commercial in confidence must not be disclosed unless required by law.

Councillors and Council staff are to protect the integrity of the procurement process by maintaining confidentiality over:

- information disclosed by organisations in tenders, quotation or during tender negotiations.
- all information that is commercial in confidence, and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests. Discussion with potential suppliers during tender or quotation evaluations should only be undertaken by an authorised officer (usually the staff member managing the quotation or tender process) and not go beyond the extent necessary to resolve doubt or clarify what is being offered by that supplier. At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised.

Tenderers should be advised that a report on a tender process may be presented at an open meeting of Council, and some information arising from the tender will be publicly available.

Records management

Council keeps records of procurement activities in accordance with the State Records Act 1998. The level of detail recorded for each procurement activity is dependent on the complexity and value of the procurement activity.

Policy Version Control

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2	Michael Todd	Quotations	19 July 2018	2018/166
3		No Change		
4	Michael Todd	Modified wording to Scope, Definitions, Legislation, Exemptions. Included Certificate of Exemption		
5		No Change		
6		No Change		
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8		No Change		
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10	Michael Todd	Tender threshold \$250K	19 September 2019	2019/09/221
11	Craig Butcher Alistair Cochrane	Changes to all sections as per comments, removed quote threshold, inserted Governance, Content and Exemptions. Inclusion of modern slavery clause, Legislation updates and modernisation		