



Procurement (Incorporating Local Supplier Preference) Policy

1 Document Information

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| Version Date <i>(Draft or Council Meeting date)</i> | 24 September 2019 |
| Author | Administration Manager |
| Owner <i>(Relevant director)</i> | Director of Finance & Corporate Services |
| Status – <i>Draft, Approved, Adopted by Council, Superseded or Withdrawn</i> | Adopted by Council |
| Next Review Date | Within 12 months of Council being elected |
| Minute number <i>(once adopted by Council)</i> | 19/09/19 |

2 Summary

The Cabonne Council Procurement Framework consists of this Cabonne Council Procurement Policy document and the accompanying Cabonne Council Procurement Guidelines.

This Procurement Framework aims to provide an effective and transparent control over the purchasing process using public funds and to manage the purchasing process in such a way that Council will benefit economically and attain its environmental and social objects including local benefit.

3 Approvals

| Title | Date Approved | Signature |
|-----------------|---------------|-----------|
| General Manager | | |

4 History

| Minute No. | Summary of Changes | New Version Date |
|------------|---|-------------------|
| | Petty cash limit amended to \$30 | 12 February 2008 |
| 10/02/17 | Readopted by Council | 15 February 2010 |
| 11/02/13 | Incorporated previous Tendering Policy relating to requirement that all tenders be by an open tender unless an alternative report has been prepared on the benefits of an alternative tendering method. Amended to incorporate recommendations made by the DLG in the Tendering Guidelines issued October 2009; Council resolution to include GIPA Act clauses as appropriate; and resolution by Council to include a 5% buffer for local preference in procurement. | 21 February 2011 |
| | Tidied | June 2013 |
| 13/09/30 | Readopted as per s165(4) | 17 September 2013 |
| 14/10/19 | 11.3.3 amended – typo at \$150,000 corrected | 28 October 2014 |
| 15/02/25 | Replacing the Procurement (including local preference) Policy | 24 February 2015 |
| 15/04/19 | Replacing the Procurement (including local preference) Policy | 28 April 2015 |
| 18/08/10 | DLG changed to OLG throughout policy. Addition to 10.6 Risk Management. Mention of WBC Alliance contracts taken out of 11.3. Addition to 11.5. First value in table on page 9 changed from \$30 to \$100. Readopted as per s165(4) | 28 August 2018 |
| 18/11/30 | Amended to incorporate a Drought Communities Grant Program clause to section 12.1 of the policy as per the minutes of the 27 November 2018 ordinary council meeting. | 27 November 2018 |
| 19/09/19 | Amended to incorporate an amendment to the Local Government Act which increases the threshold for tenders to \$250,000. | 24 September 2019 |

5 Reason

Expenditure on third party goods and services represent the most significant portion of Council expenditure.

Accordingly, Council is committed to having a Procurement Framework that effectively:

- Manages compliance requirements;
- Ensures appropriate probity, equity, transparency and ethical behaviour across all procurement activities;
- Seeks value for money outcomes;
- Manages risk;
- Consists of best practice elements;
- Drives accountable decision making;
- Recognises and accounts for social and sustainable impact; and
- Is accessible to all Council staff

The purpose of this Policy is to:

- Establish the procurement framework in which procurement activities are conducted by Council and ensure a consistent and controlled process is deployed at all times.
- Establish an ethical procurement process through a transparent and equitable procurement framework that focuses on probity considerations throughout.
- Establish a procurement framework to pursue optimal outcomes from each and every process achieved through best practice methodology.
- Demonstrate accountability.

Council will also aim to encourage the development and promotion of business and industry within the local economy and in so doing will assist in creating the growth of such business or industry. To this end, this Policy consists of the Council's policy position with regards to Local Supplier Preference, detailing a framework to support Cabonne's local industry and businesses.

6 Scope

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council Staff, temporary employees, contractors and consultants while engaged by the Council.

The purchase cost determines the procurement method / requirements to be used.

7 Associated Legislation, Supporting Policies, Resources and Documents

7.1 Associated Legislation / Legislative Framework

Local Government Act 1993 (NSW)

Local Government (General) Regulations 2005

OLG Tendering Guidelines for NSW Local Government (October 2009)

Government Information (Public Access) Act 2009

7.2 Supporting Policies / Procedures

Cabonne Council Code of Conduct

Cabonne Council Delegations Index

Cabonne Council Corporate Credit Cards Procedure

Cabonne Council Procurement Guidelines

7.3 Supporting Resources and Documents

OLG Circular to Councils No 06/07 – Procurement in NSW Local Councils

OLG Circular to Councils No 09/39 – Tendering Guidelines in NSW Local Government

ICAC Pitfalls or Probity: Tendering and Purchasing Case Studies (provide guidance on Local Supplier Preference)

ICAC Purchase and Sale of Local Government Vehicles publication

8 Definitions

| | |
|--------------------------|---|
| Act | Local Government Act 1993 |
| Buffer | Refers to percentage based pricing concession applied to identified Local Supplier's quote or tender price for comparative assessment purposes only. The current local preference buffer is 5%. |
| Council | Cabonne Council |
| OLG Tendering Guidelines | OLG Tendering Guidelines for NSW Local Government (October 2009) |
| GIPA Act | Government Information (Public Access) Act 2009 |
| Guidelines | The <i>Cabonne Council Procurement Guidelines</i> |
| Framework | The Cabonne Council Procurement Policy framework consisting both the Policy and the Guidelines |
| Local Benefit | Having the ability to positively impact upon the local economy by Council purchasing locally within policy provisions. |
| OLG | Office of Local Government (previously the Division of Local Government – note the DLG Tendering Guidelines are titled as such as they were developed under the previous name) |
| Open tendering | Means the tendering method as detailed in the Regulations (see section 166-167) |
| Policy | The Cabonne Council <i>Procurement (Incorporating Local Supplier Preference) Policy</i> |
| Prescribed Entity | An entity identified and prescribed in the Local Government Act allowing Councils to access contracts established by the 'prescribed entity' without having to go to tender in their own right. Local Government Procurement (LGP) and Strategic Purchasing are noted in the Regulations as being prescribed. |
| Regulations | The Local Government (General) Regulations 2005 (NSW) |
| Selective tendering | Means the tendering method as detailed in the Regulations (see section 166,168-169) |

Value for Money

Value for money is determined by considering all the factors that are relevant to the proposed contract and may include: experience, quality, reliability, timeliness, service, risk profiles and initial and ongoing 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'.(reference OLG Tendering Guidelines)

9 Responsibilities

9.1 General Manager

The General Manager is responsible for the overall control and implementation of the policy. Where special circumstances exist, the General Manager or his/her delegate may vary the "quotation(s)/process required" at 11.7 upon receipt of a written request outlining the circumstances.

9.2 Directors and Managers

Directors and Managers are responsible for the control of the policy and procedures within their area of responsibility.

9.3 Delegated Officers

Incumbents of positions with delegation to sign purchase orders in writing for the supply of services, goods and materials in accordance with Clause 211 of the Local Government (General) Regulation 2005 are limited to issue purchase orders only in accordance with approved budgets, approved votes, relevant statutory requirements and within Council's policies.

10 Policy Provisions and Guiding Principles

The Cabonne Council procurement policy framework is governed by the following principles. Cabonne Council's procurement of goods and services by Council must have regard to the following principles:

- Compliance
- Probity, Equity, Transparency and Ethical Behaviour
- Value for Money
- Best Practice Elements
- Accountable Decision Making
- Risk Management
- Social and Sustainable Impact

10.1 Compliance

Ensure that all relevant legislative requirements are complied with, both through the development of compliant policy and process, and by the individual application on each process.

10.2 Probity, Equity, Transparency and Ethical Behaviour

All procurement conducted by Cabonne Council must be conducted in a fair, equitable, transparent, honest and ethical manner, with the highest levels of integrity and in the public interest and compliant with all relevant requirements.

10.2.1 Standards of Behaviour and Ethics

(1) Honesty and Fairness

Council will conduct all tendering, procurement and business relationships with honesty, fairness and probity at all levels. Council must not disclose confidential or proprietary information.

(2) Consistency of Process

Council must ensure consistency in all stages of the procurement process. All requirements must be clearly specified in the tender documents and criteria for evaluation must be clearly detailed; all potential tenderers should be given the same information; and the evaluation of tenders must be based on the conditions of tendering and selection criteria as defined in the tender documents.

(3) No Conflicts of Interest

Council must ensure that procurement processes are conducted in an environment devoid of Conflicts of Interest. A council official with an actual or potential conflict of interest must address that interest without delay in accordance with Council's Code of Conduct.

(4) Rule of Law

The procurement of goods and services by Council must be in accordance with the legislative framework prescribed by the Act and the Regulations and other applicable law and legislation.

(5) Open and Fair Competition

Council must not engage in practices that are anti-competitive or engage in any form of collusive practice.

Open and fair competition between suppliers supports Council's commitment to obtaining best value for money and ensuring probity, equity transparency and ethical behaviour.

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote.

Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.

Potential suppliers are provided with consistent information and opportunity and are evaluated against defined criteria and in a consistent manner as documented in the approved Evaluation Plan;

Specifications and tender documentation will not be prepared to favour or disadvantage particular suppliers provided that the Council's strategic and business requirements are met.

(6) No Improper Advantage

Council must not engage in practices that aim to give a potential tenderer an advantage over others, unless such advantage stems from an adopted Council procurement policy such as a local preference policy (as stated in clause 12.1).

(7) Intention to Proceed

Council must not invite or submit tenders without a firm intention and capacity to proceed with a contract, including having funds available.

(8) Co-operation

Council must encourage business relationships based on open and effective communication, respect and trust, and adopt a non-adversarial approach to dispute resolution.

10.3 Value for Money

Value for public money to achieve positive outcomes for the community is the core principle underpinning Council's procurement system. This will involve a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle. To carry out the comparative analysis, Council will use appropriate evaluation criteria with a weighting applied to each evaluation criterion. Evaluation criteria and weighting will be set by the responsible officer.

10.4 Best Practice Elements

Where practicable, elements of Best Practice are to be incorporated and continually evolving into procurement in Council.

10.5 Accountability Decision Making

Council must ensure that the process for awarding contracts is not only open, clear, fully documented and defensible; it must also be consistent in its application across the whole organisation in every procurement activity.

Furthermore, Cabonne Council staff must be able to account for all procurement decisions made over the whole-of-life of all goods, services and works purchased with supporting, auditable, documentation.

All decisions and actions must be accountable, defensible and withstand scrutiny.

10.6 Risk Management

Strategies for managing risks associated with all procurement processes are in place and consistent. Risk Management is a primary consideration in the Cabonne Council procurement processes, potential risks will be identified, analysed, evaluated, treated and monitored across all stages of procurement activity with reference Council's interests and appetite for risk.

In order to mitigate the risks to Council, Purchase Requisitions are to be raised and approved in accordance with the Procurement Guidelines.

10.7 Social and Sustainable Impact

Cabonne Council recognises it has an implicit role in furthering sustainable development, through its procurement of goods, and services and works. Cabonne Council recognises the potential impact it's spend has on the environment, communities and markets and where applicable will integrate sustainability, environmental and social issues into the procurement process.

11 Procurement Policy Framework

11.1 Procurement Policy Framework

The Cabonne Council Procurement Policy framework comprises this Cabonne Council Procurement Policy document, the accompanying Cabonne Council Procurement Guidelines document and all related template documents and process guides.

This Policy documents provides the policy position and statements with regards to Procurement whilst the accompanying Guidelines provides details on process and procedures.

To be compliant with the Cabonne Council Procurement Policy framework requires compliance with all relevant requirements detailed in both the Policy and the Guidelines.

11.2 Procurement Strategy

The completion of a Procurement Strategy is required for:

- Any procurement where the anticipated cost exceeds \$80,000; and / or
- Any procurement which is identified as presenting significant risk; and / or
- Any procurement for the engagement of professional consultants

The Procurement Strategy is to be completed as per the requirements detailed in the Guidelines.

The Procurement Strategy is to be approved by the relevant Delegated Authority.

11.3 Use of existing contracts

Wherever an existing contract is available for use by Cabonne Council (including State Government, Local Government Procurement (LGP) or (CENTROC contracts) is in place, it shall be reviewed in the first instance to ascertain whether the existing contract(s) satisfies the identified requirement.

Should the identified contract satisfy the identified requirement it should be utilised. Where the available contract does satisfy the identified requirement however it is determined that the use of the contract is not in the best interest of Council, then an Exemption from Process application is to be made for approval by the General Manager (see section 11.7)

Any purchases in excess of \$250,000 must be resolved by Council regardless of whether it is acquired through the utilisation of available contracts that legislation allows access to (i.e. LGP and other 'prescribed entities') or as a result of a separate tender process.

Where there is no available contract to review or if the available contract does not satisfy the identified requirement then the appropriate procurement process as determined by value and risk is to be completed as detailed in this Procurement Policy Framework.

This provision seeks to remove duplication of effort and research; and saves Council's resources in not having to go through the Tender / procurement process unnecessarily.

11.4 Quotations

Expenditure by means of a quotation process represents the majority of Council expenditure. Accordingly, Council through the procurement Framework has identified appropriate processes to be completed when completing procurement via a quotation process.

Quotation processes are to be approached considering the detailed Cabonne Council Procurement Guidelines, in accordance with the detailed procedures and requirements dependent upon value of the procurement.

11.5 Tendering

Any tender process undertaken by Cabonne Council must comply with all aspects of the legislative and regulatory considerations applicable; including the Act, the Regulations and the OLG Tendering Guidelines.

Council will seek tenders where required by the Act and at other times as detailed and qualified in the approved Procurement Strategy.

Council requires that all purchases anticipated to be in excess of \$150,000 (inc GST) be sourced by an open tender or by accessing an approved panel contract (e.g. LGP, NSW State Government contracts etc), unless an alternative report to council has been prepared on the benefits of an alternative tendering method, and the Recommendation to utilise an alternative procurement method is approved, most notably a Selective Tender (see section 166-169 of the Regulations).

Council officers must not split tenders in order to fall below the \$150,000 threshold.

11.6 Process Requirements by Spend Threshold

Purchases for less than \$250,000 (inc GST) will be authorised by appropriate council officers who have been delegated to give orders in writing for the supply of services, goods and materials in accordance with Clause 211 of the Local Government (General) Regulation 2005. Levels of delegation are set out in the Cabonne Council Delegations Index.

Orders can only be given in accordance with approved budgets, approved votes, relevant statutory requirements and within Council's policies through the appropriate process required as shown below.

| Value of Goods and Services (GST Incl) | Process Required |
|--|--|
| Up to \$500 | Seek 1 quote |
| \$501 to \$5,000 | Minimum of 1 quote |
| \$5,001 to \$20,000 | Minimum of 2 written quotes |
| \$20,001 to \$80,000 | Minimum of 3 written quotes |
| \$80,001 to \$249,999 | Formal Request For Quotation (RFQ) – treat similar to Tender |
| \$250,000 and above | Full Tender process to be followed |

The maximum threshold for contracts involving services provided by Council staff is \$150,000

11.7 Exemptions from Process

Where applicable by law, the General Manager may at his/her discretion, provide an exemption from the processes required by the Cabonne Council Procurement Framework.

Any request for exemption from the established processes and requirement of the Framework must be well qualified and detailed to provide the General Manager with all relevant factors to consider when making a determination.

The process and requirements with regards to an exemption from process is fully detailed in the Guidelines.

Note – the General Manager does not have the delegation to approve any exemption to legislative or regulatory requirements as detailed in the Act, the Regulations, the OLG Tendering Guidelines or any other relevant legislation including exemptions or variations with regards to the requirement and process for procurement in excess of \$250,000.

11.8 Contract Management

To ensure that the identified value for money at the time of engagement is realised, Council will implement appropriate Contract Management frameworks to manage all contracts that Council enter into.

Details of the Contract Management framework is provided in the Guidelines.

12 Local Supplier Preference

12.1 Local Benefit

Council is committed to supporting the local economy and enhancing the capabilities of local business and industry by including a Local Supplier Preference framework in this Policy.

The objective of this policy provision is to create a framework that ensures Council gives 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.

Locally sourced goods and services will be used where price, performance, quality, suitability and other evaluation criteria are comparable with non-locally sourced goods and services.

To assist local industry and local economic development, Council will:

- a) Use a local preference 'buffer' when assessing prices as defined in this policy framework.
- b) Encourage a 'buy local' culture within the Council where applicable;
- c) Disseminate contract and tender information to local industry, in a manner deemed appropriate;
- d) Ensure that buying practices, procedures and specifications do not disadvantage local suppliers and ensure transparency in quotation, tendering and contract management practices; and
- e) Encourage local businesses to promote their goods and services to Council.

Council must seek quotes from Local Suppliers where possible.

For the purposes of evaluating the pricing component only, in effect a percentage-based pricing concession will be applied to the bid price of identified Local Supplier – the current pricing concession is 5%. Accordingly, the submitted price from identified Local Suppliers will be reduced by 5 %.

Where all submissions are received from identified Local Suppliers, the 5% buffer will not be used in the assessment.

In accordance with Item number 13 from the minutes of the ordinary council meeting of 27 November 2018, Materials acquired under the Drought Communities Grant Program are to be purchased from within the Cabonne Local Government Area where possible.

12.2 ICAC

It is noted that the ICAC has previously published its findings into research it undertook into Local Preference practices/policies by Local Government. This policy acknowledges the findings and requires that Council be precise about the local preference rule and includes it in tender documentation. Council will also monitor the cost of the policy, including adverse impact on competitiveness as recommended in the ICAC report. After regular reviews Council may alter its policy to provide a buffer which it has included with a view to supporting local industry.

12.3 Identification of 'Local Suppliers'

Local suppliers are identified for the purposes of the application of the Local Supplier Preference utilising the following qualification:

Local Suppliers are those suppliers that have maintained a registered business address in the Cabonne Council Local Government area for the preceding 12 months prior to the procurement activity for which they are seeking Local Supplier status.

12.4 Application of Local Supplier Preferencing

The price concession buffer will be applied in the evaluation and decision making process for all procurement activity up to \$150,000. The Process with regards to the application and use of the buffer in evaluating offers is detailed in the *Cabonne Council Procurement Guidelines*.