

PROCUREMENT POLICY

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PREPARED BY:
CORPORATE GOVERNANCE UNIT



4-20 Eton Street,
Sutherland NSW 2232
T 02 9710 0333
sutherlandshire.nsw.gov.au

SUTHERLANDSHIRE

1. PURPOSE

The purpose of this Policy is to provide guidance to Council and its employees to promote consistency and control over procurement activities and demonstrate transparency and accountability to rate payers and residents associated with Council's procurement process.

This Policy supports Council's corporate strategies, aims and objectives including those related to sustainability, protection of the environment and corporate social responsibility.

This Policy also ensures that a long-term strategic view of procurement needs are considered and a continuous assessment, review and auditing of procedures are undertaken in a robust and transparent manner.

2. APPLICATION

This Policy applies to all contracting and procurement activities undertaken by Council and is binding upon Councillors, Council employees and temporary staff, contractors and consultants while engaged by Council.

3. PRINCIPLES

3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

3.2 Value for Money Procurement

3.2.1 The availability of existing funds within an approved budget, or source of funds, should be established prior to the commencement of any procurement process. Council employees must not authorise the expenditure of funds in excess of their financial delegations or available budget.

3.2.2 Council funds must be used efficiently and effectively to procure goods, services and works, with every attempt being made to contain the costs of procurement process without compromising any of the procurement principles set out in this Policy.

3.2.3 Council will achieve value for money by balancing the following:

- Relevant non-cost factors including quality, fitness for purpose, capacity and capability of service provider, timeliness, environmental and social factors and any non-cost risks.
- Relevant cost factors such as whole of life costs from acquisition to disposal and any cost related risks.

3.3 Ethical Procurement

- **Honesty and Fairness:** All Council procurement processes must be conducted in a fair, honest and open manner, with the highest level of probity and integrity and in the public interest.
- **Accountability and Transparency:** Accountability in procurement means being able to explain, take responsibility for, and provide evidence on the process followed. An independent third party must be able to see clearly that a process has been followed and the process is fair and reasonable.
- **Consistency:** Consistency must apply in all stages of the procurement process in accordance with this Policy and Procurement Guidelines.
- **No Conflict of Interest:** A Council official with an actual, perceived or potential conflict of interest must declare and manage that conflict without delay.
- **No Anti-Competitive Practices:** Council must not engage in practices that are anti-competitive or collusive.
- **Open and Fair Competition:** All suppliers / tenderers are treated fairly in an open and transparent manner and have access to the same information. There must be no improper advantage.
- **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.

3.4 Sustainable Procurement

3.4.1 Consideration to Possible impacts

Wherever possible, Council officers and contractors will give consideration to impacts and adhere to the specified objectives when purchasing products and services. The following impacts should be considered during the entire life cycle of the procured product, service or work i.e. production, distribution, usage and end of life stages:

- **Minimise Unnecessary Purchasing** – only purchase when a product or service is necessary.
- **Minimise Waste** – purchase in accordance with avoid, reduce, reuse and recycle strategies.
- **Save Water and Energy** – purchase products that save energy and / or water.
- **Minimise Pollution** – avoid purchasing products that pollute soils, air or waterways.
- **Non-Toxic** – avoid purchasing hazardous chemicals that may be harmful to human health or ecosystems.
- **Greenhouse Benefits** – purchase products that reduce greenhouse gas emissions.
- **Biodiversity and Habitat Protection** – purchase in accordance with biodiversity and conservation objectives.

3.4.2 Objectives through Sustainable Procurement

Council's objectives through sustainable procurement are to:

- Eliminate unnecessary inefficiency, waste and expenditure;
- Contribute to the combined purchasing power of local government to further stimulate demand for sustainable products;
- Advance sustainability by participating in “closing the life-cycle loop”;
- Increase awareness about the range and quality of sustainable products available;
- Deliver Council's commitment to ecologically sustainable development and other environmental and social objectives;
- Play a leadership role in advancing long term social and environmental sustainability; and
- Support local businesses and organisations.

3.5 Socially Responsible Procurement

Council will aim to generate positive social outcomes when acquiring goods, services and works. Social procurement components should be considered in the development of individual procurement strategies. Staff should give consideration to:

- **Employment and Training** – Create opportunities for inclusion of people who have been excluded from the workforce.
- **Diversity and Equality** – ensuring that all businesses have fair and equal access to procurement opportunities to build a supplier base that reflects the diversity of the community.
- **Fair trade** – ensuring that supply chains are adhering to fair trade practices to support equitable local, national and international trade.
- **Accessibility Requirements** – Australian Disability Enterprises should be considered when making procurement decisions for goods and services.
- **Local Economic Development** - Local companies and contractors – including small to medium enterprises and social benefit suppliers should not be disadvantaged or excluded from procurement processes.
- **Modern Slavery** - Suppliers are to take reasonable steps to identify assess and address modern slavery risks within their operations and supply chains and in accordance with the *Modern Slavery Act 2018* (Commonwealth). Council must be notified in writing of any Modern Slavery occurrence or human rights violations detected and remedial action taken, including actions to reduce the risk of future occurrence.

3.6 Risk Managed Procurement

Council will aim to undertake all procurement activities within its risk appetite, avoiding unnecessary risk.

4. RESPONSIBILITIES

4.1 Responsible Officer

The Team Leader Legal and Procurement is the Responsible Officer for this Policy and is responsible for management of the tender process and providing quality procurement advice, guidance and education to Council to ensure Council complies with its obligations pursuant to the *Local Government Act 1993*.

4.2 Chief Executive Officer

Council has delegated the Chief Executive Officer the authority to accept or decline tenders in certain circumstances.

The Chief Executive Officer is responsible for the authorisation of delegations to employees for the acquisition of goods and / or services to the value specified.

4.3 Directors

Directors are responsible for ensuring their Division adheres to the requirements of this Policy and provide guidance in respect of the strategic procurement goals of the division and organisation.

Directors should ensure that procurement spend is within Divisional budget and review purchasing reports for compliance with policy and unusual transactions.

4.4 Employees

Employees must adhere to the requirements of this Policy and operate within the authorities of any financial or procurement delegations granted to them by the Chief Executive Office.

5. POLICY COMPLIANCE

5.1 Procurement and purchasing processes will be subject to audit / review on a timeframe to be determined by Council's Audit, Risk and Improvement Committee based on a risk-based Audit Program.

5.2 Scheduled and ad-hoc exception reporting will be undertaken by the Team Leader, Legal and Procurement or delegated employees to enable monitoring of procurement activity and associated compliance.

5.3 Scheduled reviews will be undertaken by Business Unit Managers while assessing Contractor Activity in conjunction with contract terms.

6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Council adheres to and complies with the *NSW State Records Act 1998* and *Privacy and Personal Information Protection Act 1998* through its Access to Information Policy and Privacy Management Plan.

7. BREACHES OF POLICY

Breaches of this Policy will be dealt with in accordance with normal disciplinary procedures and will be advised to the Chief Executive Officer and / or Director Corporate Support, via the Chief Finance Officer and / or Manager Corporate Governance where appropriate.

8. RELATED DOCUMENTS

- Enterprise Content Management Policy
- Code of Conduct for Council Staff 2022
- Fraud and Corruption Prevention Policy
- Work Health and Safety Policy
- Access to Information Policy

9. RELEVANT LEGISLATION AND REGULATIONS

- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2021 (Part 7 – Tendering)*
- Office of Local Government Tendering Guidelines for NSW Local Government
- *Public Works and Procurement Act 1912 (NSW)*
- *Public Works and Procurement Regulation 2014*
- *Public Finance and Audit Act 1983 (NSW)*
- *State Records Act 1998 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Government Information (Public Access) Act 2009*
- *Commonwealth Modern Slavery Act 2018*
- *NSW Modern Slavery Act 2018 and Modern Slavery Amendment Act 2021*
- *Heavy Vehicle National Law 2013 (NSW)*
- Code of Accounting Practice / OLG Accounting Practice and Policy Guidance
- *The Independent Commission Against Corruption (ICAC) Act 1988*

10. DEFINITION OF TERMS

Term	Meaning
Council Officer	An employee of Sutherland Shire Council.
Procurement	The whole process acquisition of external goods, services and works from initial concept to asset disposal or end of a contract.
Tenderer	An entity submitting a response to a request for tender.
Probity	A process consistent with Council policies and Legislation that treats all potential suppliers equitably.
Modern Slavery	The severe exploitation of other people for personal or commercial gain.
Australian Disability Enterprises (ADEs)	The NSW Government wants to support businesses that employ people with a disability. These businesses are known as Australian Disability Enterprises (ADEs).

End of Document

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