



1. Intent of Policy

The intent of this policy is to:

- Provide clear guiding principals for the procurement and disposal of materials, equipment and services through quotations and tendering, to assist in ensuring best value for money, cost, effectiveness, meeting the needs of the community, good management practices, transparency, probity and environmental performance.
- Comply with occupational health and safety good practice in the general employer's duties required under the WHS Act 2011 and the WHS Regulation 2011 with the regard to purchasing of equipment, plant and material.
- Endeavour to participate in sustainable procurement to facilitate purchasing environmentally sustainable products and services whenever possible.

2. Scope of Policy

Council is committed to ensuring fair, transparent and accountable process in the purchase of disposal of goods, the contracting of services, and in the disposal of assets. This policy applies to all Councillors and Staff of Oberon Council.

3. Guidelines

Council's procurement and disposal related activities shall be conducted in a manner that complies with these general procurement principles:

- Obtaining value for money in the procurement and disposal of goods and services, using open and effecting competition wherever practicable.
- Quality, price, delivery and service shall generally be considered the main criteria in assessing Council's procurement and disposal of goods and services together with experience, conformance with specifications (including environmental performance), local benefit, WHS record and system and project specific matter.
- Council expects its contractors and suppliers to comply with ethical business standards and practices in its procurement activities.
- Council expects its contractors and suppliers to comply with insurance requirements
- Council shall strictly implement its Code of Conduct, guidelines and other relevant policies on matters relating to its procurement activities.
- All staff are required to consistently apply and implement Council's procurement policy and procedure.

4. Responsibility

General Manager and Directors

General Manager and Directors are responsible for providing policy, procedures and framework to facilitate transparent, ethical and value for money procurement.

Managers

Managers are responsible for ensuring this policy is implemented within their workgroup. Managers are to ensure hazard identification and risk assessment is undertaken with regard to equipment, materials and supplies which they have responsibility for purchasing for workplace use.

Supervisors

Supervisors are responsible for ensuring procurement tasks are carried out according to procedures. Supervisors are to ensure there are in place procedures for identifying safety defects in equipment, material and supplies purchased and used at the workplace.

Employees

Employees are responsible for carrying out procurement activities in an appropriate manner with regard to training undertaken.

Supplier

The supplier is required to advise of the risks to WHS of the purchase, and to supply appropriate information and instruction to ensure safe use at the workplace. Large procurements or procurements with elements outside Council's areas of expertise will require the supplier to complete a risk assessment prior to Council accepting the item or service.

4. Categories of Procurement

4a. Petty Cash

Petty cash is used to meet the need for the procurement of small incidental goods and urgent situations for Council and is limited up to \$50.00 per individual transaction. Splitting of purchases to circumvent the limit or the multiple purchases of the same items over a period of time is not permitted. Petty cash claims are to be approved by authorised officers and records of claims and tax invoices maintained.

The General Manager is delegated authority to determine all matters relating to petty cash, in order to allow the levels of the floats and the limits placed on petty cash vouchers to be amended administratively. In this regard, the petty cash limit may be varied from the \$50.00 limit in extenuating or emergency circumstances when a cash transaction is required.

4b. Credit Cards

Please refer to Council's Policy 2117 Corporate Credit Card for details. The Corporate Credit Card policy is to minimise administration expenses, time inefficiencies, the risk of fraud and misuse by providing Oberon Council staff clear guidelines on corporate credit card issue and use.

4c. Value for Money

Council seeks to achieve value for money in all its procurement activities. Council will select goods, services and suppliers that represent the best overall value for Council; not necessarily the lowest priced conforming offer.

Value 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. Value for money is not restricted to price alone.

When assessing value for money, consideration shall also be given to:

- The advancement of Council and Local Government priorities
- The non-cost factors, such as fit for purpose, quality, service and support, and sustainability considerations
- The cost related factors including whole-of-life costs and transaction costs associated with acquisition, use, holding, maintenance and disposal.

4d. Purchase Order

A purchase order is Council's official document used to purchase goods or services from an external supplier. A purchase order created through the online requisition module confirms the contractual relationship between Council and the supplier. The purchase order number must be issued to the supplier before the procurement of the goods or services and placed on the invoice issued to Council.

Apart from delegation of authority, financial allocation of funds must also be available to undertake procurements.

The limitations below refer to the total cost of purchase, not to individual line items. Order splitting, that is multiple orders, is not permitted to avoid limitation levels within the procurement process.

\$1 up to \$4,999

A competitive process is not required, although it is recommended that at least one verbal or written quotation is obtained where possible. The use of 'Corporate Credit Cards' by authorised Council staff for minor, low risk purchases may be considered within this limit range.

\$5,000 to \$49,999

A competitive process is recommended, with three written quotations obtained where possible. This will ensure that an open, fair and transparent process is carried out, resulting in the facilitations of a Value for Money judgement. All quotations are to be attached to Council's Purchase Order. All quotations and records are to be attached to the Purchase Order and retained by Council's Accounts Payable Officer, attached to the appropriate voucher.

\$50,000 up to \$149,999

A competitive process is required, with a minimum of 3 written quotations obtained. This will ensure an open, fair and transparent process is carried out, resulting in the facilitation of a Value for Money judgement.

The process used for procurement in this price range should involve thorough assessment of the quotations against appropriate evaluation criteria with authorisation to process, approved by the procuring officer's senior supervisor.

Quotations are to be recorded in Council's electronic document management system (InfoXpert).

In Excess of \$150,000

Full tendering procedures are to be in place with a process that meets the requirements of the Local Government Act 1993 (S55) and the Local Government (General) Regulation 2005.

4e. Tending

All tendering must be undertaken in accordance with section 55 of the Local Government Act 1993. In extenuating circumstances the provisions of sections 55(3), of the Local Government Act 1993 may be applied subject to a supporting resolution of Council.

It is essential that forward planning of this process occurs in order to allow time for both Council and potential suppliers to comply with policy and tendering requirements.

If a Government contract already exists for the goods and services in question, then it is at Council's discretion whether it wishes to tender separately or simply use the Government contract already in place.

Other Instances that require Tendering

- Where the sale or purchase of goods or services may be considered controversial, contentious or political.
- Where the sale or purchase of land may be considered controversial, contentious or political.
- Where there is a risk that "would be" tenders could claim that Council has "preferential" arrangements with a single supplier.
- Where there is a risk that "would be" tenders could claim that they would have tendered for the work if a public tendering process had been undertaken.
- To assist with the Tendering Process, refer to the Department of Local Government Guidelines.

Tendering Methods

- Open Tenders – where Council tenders by public advertisement with no restriction placed on whom may tender.
- Selective Tenders – where invitations to tender for a particular proposed contract are made following a public advertisement asking for Expressions of Interest.
- Selected Tenders/Pre-qualifies Tenders – whereby recognised contractors selected from a list prepared or adopted previously by the Council are invited to tender for proposed contracts of a particular kind.

Special Circumstances Orders

Provision is made for purchases of goods and services to be obtained without quotes if approved by an appropriately delegated officer of Council. This would occur in circumstances where it was not practicable to obtain quotes due to the timing that the services or goods are required in an emergency situation, or where the expertise required has limited availability.

The delegated officer would need to be satisfied that a legitimate emergency situation exists.

Communication with Tenders

All communications with potential tenderers should be conducted within strict probity and risk management frameworks to ensure accountability and transparency.

Councillors and staff are reminded to ensure they act in accordance to the Local Government Code of Conduct.

Records should be kept of all communications with all tenderers. Council officers are to ensure that:

- A register of all requests for tender documents and a register of all requests for information regarding the tender and requests for clarification are maintained.
- Communication with potential tenderers is only undertaken by the contact person who must be listed in the public advertisement of the tender and the tender documents.
- Unless impractical, all communication to tenderers be provided in writing and simultaneously to all tenderers in respect of a question asked of the tender. A copy of the question, but not in details of the source of the question, should be circulated with the answer.
- Information or clarification provided to potential tenderers is consistent and documented. Where the information is not readily or immediately available, the contact person obtains the relevant information and then follows up the request.
- Response to queries about a specific tenderer's innovative solution should not be communicated to any other tenderer.
- Any amendment to the tender documents and the steps taken to inform all potential tenderers of the amendments, are documented.
- Responses to tender enquires should reference the relevant clause in the tender documents or if there is no clause relevant to the query, provide the response as an addendum to the tender documents.
- Information or clarification provided to potential tenderers is consistent and documented.
- Where briefing or site visits are offered by the council in regard to a particular tender, an attendance register and minutes or notes of the proceedings, including questions asked and answers provided is maintained and forwarded to all attendees following the briefing or site visit.
- During briefings or site visits, council officials should avoid one to one communication. Requests for information by one potential tenderer should be repeated and the response provided to all in attendance.

Tender Evaluation

A tender evaluation committee will be formed to evaluate all tender responses.

General key area is to be taken into consideration when evaluating a tender include:

- Price – while price is one of the most important aspects of Procurement, it does not always follow that the lowest price will always win the contract. The requirement is for the most commercially favourable and advantageous tender to be accepted. This may not necessarily be the cheapest tender.
- Commercial Considerations – these might include the ability of the supplier to deliver the goods and/or services as and when required; the capacity of the supplier to meet environmental and WHS standards; and previous poor supply performances, inferior product quality; ability to meet appropriate quality standards as set but Council as suitability of the product being tendered.
- Financial Considerations – the financial viability and stability of the supplier. If there are questions in this regards, then appropriate advice should be sought.
- Risk – a formal risk assessment should be conducted for all major tenders over \$1,000,000. The resulting risk profile should be used in conjunction with the analysis of other evaluation criteria to determine the recommended tenderer to Council.

Pre-Procurement Activities

In considering the purchase of plant, equipment, services and materials the following questions are to be addressed:

- What is the proposed purchase item?
- What safety information has been obtained from the supplier regarding the item to ensure the hazards and risks can be properly assessed? Equipment Manual Australian Standards/MSDS/other safety information.
- Which employees and work processes are affected by the purchase?
- Have the affected employees been consulted? When? Staff will be able to provide input on the requirements of the plant, equipment and material and provide information on safety issues that need to be controlled.
- What are health and safety risks relevant to the purchase? A risk assessment is undertaken with regard to its potential use at the workplace including the hazards and risks presented by the item to be purchased, the manner in which it is to be used, the suitability of the item for the purpose, and the opinions of the users of the item.
- How will the purchase help manage these risks?
- What has to be done to ensure the use, storage and transport of the purchase is safe, including any specific risk control measures identified by the manufacturer/supplier, provision of any personal protective equipment recommended by the manufacturer/supplier, and provision of any special emergency equipment?
- What change will need to be made to Safe Work Procedures? Effective risk management procedures need to be in place before the equipment or substances are used at the workplace.
- What training will be required before the purchase to ensure the safe use of the equipment or substance?
- Have environmental impacts from the purchase of the product or services been considered?

Post-Tender Activities

A listing of tender respondents is to be displayed in alphabetical order as soon as practicable after the tenders have been opened.

Once a confidential report will be submitted to Council and the tender awarded. In accordance with Clause 179 of the Regulation, Council must make information on the outcome of the tendering process publicly available by displaying the name and amount of the successful tender, or if no tenders were accepted, a notice to that effect.

Further, as soon as reasonably practicable, tender respondents should be notified in writing of their successful or unsuccessful tender.

If feedback is requested by an unsuccessful tender, it will be provided by the Senior Manager responsible for the particular tender.

5. Sustainable choice and Environmental Goals and Objectives

Goals

Wherever possible, Council employees and contactors will pursue the following goals and adhere to the specified objectives when purchasing products and services (nothing that these impacts should be considered during the entire life cycle of the product – i.e. the 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 health or ecosystems.
- Greenhouse Benefits – purchase products that reduce greenhouse gas emissions.
- Biodiversity and Habitat Protection – purchase in accordance with biodiversity and conservation objective.
- Value for Money – purchase the best value for money on the long term.

Objectives

Council's objectives through sustainable purchasing 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 products available.
- Deliver Council's commitments in relation to ecologically sustainable development (ESD) and other environmental and social objectives.
- Play a leadership role in advancing long-term social and environmental sustainability.

6. Training

- Code of Conduct Online Course
- Internal workshops to inform staff of this policy.

7. Reporting

Procurement reporting will accord to the reporting provisions of the Local Government Act 1993.

8. Sale or Disposal of Land and Assets

Principles

While the same principles and standards that apply to the procurement process equally apply to the process of selling or disposing of land or assets, the following have specific applications to the sale of land and assets:

- Consideration of community access to an appropriate range of facilities and services within Oberon Council, delivered through the physical assess.
- Recognition of the value of areas of native vegetation to biodiversity in Oberon Council, and the need for area to be available for this purpose.
- Transparency and accountability in sale and disposal practices and procedures.
- Thorough community consultation on proposed sale or disposal of significant and important assets.
- The equitable distribution of, and access to, quality physical assets within Oberon Council.
- Recognition of opportunities to enhance local economic development and growth.
- The benefits of quality physical asset management including better service delivery, optimising the utilisation of assets, higher return on investments and creating opportunities to facilitate new facilities and services.
- Compliance with all statutory obligations.
- Commercial confidentiality.
- Consideration of ecological impact.
- Equitable, efficient and defective practices and decisions.

Criteria

The following criteria should be considered in deciding which method to use for the sale or disposal of land and assets:

- The number and type of known potential purchasers of the land or assets.
- The original intention for the use of the land or asset when purchased.
- The original method and intent of Council in obtaining ownership or custodianship of the asset.
- The current and possible preferred future use of the land or assets.
- Potential for development and local economic growth.
- Estimated value of asset.
- The level of public interest in the disposal.

Methods of Disposal

The following general methods of sale or disposal of Council's assets are acceptable:

- Relocation of an asset which is surplus from one area within Council to another area within Council which can utilise the asset.
- Trade-in on new assets
- Sale by public auction
- Open invitation to quote to staff in specific circumstances, for the disposal of obsolete equipment that has no significant market value.
- Open invitation to tender or quote to the public through advertisements in the media.
- Direct approach to potential purchasers in specific circumstances, such as:
 - Prior ownership of the land or asset
 - The owners of land adjoining the parcel of land for sale
 - Direct relationship with an asset
 - Prior contractual arrangement.
- Donation to charitable institutions or local community service organisations
- Disposal at a registered Waste Management Facility.

Council staff may only purchase assets being disposed of through an arms length competitive process, such as calling of expressions of interests from staff or public auction. Assets will not be sold to individual staff by private treaty, unless extenuating circumstances apply and only then with the express consent of the General Manager. Assets being scrapped are only to be taken by Council staff with the consent of the General Manager.

Tenders

Should Council determine to invite tenders or expressions of interest for the sale or disposal of land and assets, the same procedures that apply to the procurement process equally apply to the process of selling or disposing of land or assets.

9. Business Ethics

Oberon Council expects all its representatives, staff and Councillors to behave ethically. We are all required to abide by the Model Code of Conduct. The Council also expects private industry and its representative to maintain similar standards of ethical conduct in their dealings with Council.

There are three main principals that form the basis of Oberon Council's business agreements. Firstly, there is the need to obtain the best possible value for public money; secondly, local benefit; and thirdly, Council needs to demonstrate impartiality and fairness at all stages of the process.

These principles enable the suppliers to promote their interests productively and avoid potentially questionable activity. Those providing goods and services also benefit from the assurance that their competitors are required to behave in accordance with the same guidelines.

Value for Money is determined by considering all the factors which are relevant to a particular process. For example, quality, reliability, timeliness, service, initial and on going costs, are all factors which can make a significant impact on benefits and costs. Value for money does not mean 'lowest price'. However, the lowest price bid might offer best value if it meets other essentials such as quality and reliability.

Local Benefit as one of the selection criteria for assessing tenders, Council is actively encouraging and promoting business and industry within the Oberon Council Local Government Area, without conferring an improper advantage or breaching the Trade Practices Act. Local Benefit shall only have a maximum of 10 points out of 100 for tender assessment criteria.

A local benefit can be established where there is one or more of the following:

- Locally sourced materials specific to the contract
- Locally sourced services as a result of the contract (e.g. accommodation or electricians)
- Locally sourced labour (people domiciled within the Oberon Council Local Government Area) either sub contractors or employees, either at the time of tendering or as a result of being successful in the tender.
- A business premises in Oberon Council Local Government Area.

Impartiality and fairness are about being objective, even-handed and reasonable. An impartial person will try objectively to establish criteria. A fair person would not for example change or introduce new selection criteria midway through the tendering process without advising all tenderers.

Being impartial includes taking into account the practicalities of a given situation. Impartiality does not require, for example, inviting bids from firms which have performed poorly in the past. In some circumstances, fairness takes into account the effects of actions of others. It would be unfair to call tenders when there is not a serious intent to award a contract subject to a satisfactory offer.

Fairness does not mean pleasing everyone. Council operates from a viewpoint where it aims to be fair in all its dealings and minimise, where possible, any adverse effects of its decisions.

Oberon Council expects staff and Councillors to:

- Respect and follow Council's policy
- Treat all tenders for the supply of goods and services equitably
- Promote fair and open competition while seeking best value for money
- Protect confidential information
- Meet or exceed public interest and accountability standards
- Avoid situations where private interest could conflict with public duty
- Never solicit or accept remuneration, gifts or other benefits from a supplier for the discharge of official duties
- Respond promptly to reasonable requests for advice and information.

Council expects tenderers, suppliers, consultants and contractors to:

- Respect the conditions set out in documents supplied by Council
- Respect the obligation of Council staff to abide by Council's procurement policy.
- Abstain from collusive practices
- Prevent unauthorised release of privileged information, including confidential Council information
- Refrain from offering Council employees or Councillors any financial or other inducement which may give any impression of unfair advantage.

How It Works

There is no absolute definition of 'ethical behaviour'. If there is any doubt about the ethics of a proposed action, a sensitive test is whether or not you would be happy to see your behaviour published in the local newspaper.

Staff and Councillors of Oberon Council or those employed of a tender, supplier, consultant or contractor who are concerned that a breach of the law or of ethical conduct may have taken place, should discuss the matter with Oberon Council's General Manager on (02) 6329 8100.

Oberon Council is committed to overseeing the continued growth of the area and ensuring high quality of life for residents and visitors.

Related Documentation

- Council's Delegations Register
- DLG Tendering Guideline for NSW Local Government
- Risk Management Policy
- Plant and Vehicle Replacement Policy
- Code of Conduct Policy
- Corporate Credit Card Policy
- Gifts & Benefits Policy
- GIPA 2009

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