

Procurement and Disposal Policy

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The purpose of this Policy is to demonstrate Wagga Wagga City Council's commitment to delivering leading practice in Council's purchasing of goods, services and works that align with the principles of transparency, probity and good governance in accordance with the *Local Government Act 1993 (the Act)* and the *Local Government (General) Regulation 2021 (the Regulations)*.

Purpose

Council believes that overall policy must be underpinned by sound principles, which are well understood; communicated to the community and staff and is compliant with current legislation.

Council's objectives in establishing this Policy are to:

- Ensure compliance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.
- Ensure leading practice policies and procedures are followed in relation to the purchasing and disposal activities for Wagga Wagga City Council.
- Undertake purchasing and disposal processes that ensure value for money for the Council by delivering the most advantageous outcome possible.
- Ensure openness, transparency, fairness and equity through the purchasing and disposal process to all potential suppliers and buyers therefore strengthening integrity and confidence in the purchasing and disposal practices.
- Ensure efficient and consistent purchasing and disposal processes are implemented and maintained across Council.
- Ensure compliance with the *Government Information (Public Access) Act 2009 ("GIPAA")* and the *Privacy and Personal Information Protection Act 1998 ("PPIPA")*, and associated records management practices and procedures of Council.

Scope

This Policy covers all procurement of goods and services and disposal of goods by Wagga Wagga City Council:

- by all Wagga Wagga City Council employees
- by the Mayor of Wagga Wagga City Council.

Wagga Wagga City Council, is obliged to call Tenders for the procurement of goods or services with an estimated value exceeding the *Local Government Act 1993* Tender Threshold of \$250,000, or another amount as may be prescribed by the regulations, or \$150,000 where the contract involves the provision of services, where those services are, at the time of entering the contract, being provided by employees of the Council.

This Policy does not apply to the procurement of goods and services:

- from internal Wagga Wagga City Council sources;
- in an emergency;
- by contractors or subcontractors of Wagga Wagga City Council.
- for the leasing or sale of Council Land

Policy Provisions

General Provisions

In purchasing goods and services and disposing of goods, Council will:

- ensure transparency and accountability in purchasing and disposal procedures;
- purchase of goods, services and disposal of goods at the best price and best value;
- ensure open competition with no individual supplier being provided with an advantage over others;
- ensure that purchasing decisions consider the effect on the environment;
- comply with statutory obligations; and
- maintain commercial confidentiality.

Specific Provisions

Ethics and Integrity

Code of Conduct

All Council Officials undertaking purchasing activities must have regard for the requirements contained in Wagga Wagga City Council's Code of Conduct and shall observe the highest standards of ethics and integrity. All Council Officials must act in a manner that is honest and professional and supports the standing of the Council at all times.

Purchasing and Disposal Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing or disposal process to ensure the fair and equitable treatment of all parties:

Accountable

Council Officials shall take full accountability for all purchasing and disposal decisions and the efficient, effective and proper expenditure or receipt of public monies based on achieving value for money.

Compliant

All purchasing and disposal practices shall comply with relevant legislation, regulations and requirements consistent with Council policies and the Code of Conduct.

Transparent, Honest and Equitable Dealing

Council Officials must ensure that purchasing and disposal processes are undertaken on a competitive basis where all potential suppliers, contractors and buyers are treated impartially, honestly and consistently.

All prospective suppliers and vendors will have the same information about the procurement to enable them to submit prices, quotations and Tenders on the same basis. Council must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.

All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation.

Confidentiality

Any information provided to Council by a potential supplier and contractor shall be treated as commercial-in-confidence and must not be released, other than in the course of Council business, unless authorised by the supplier or relevant legislation.

Confidentiality of commercially sensitive material such as prices, discounts, rebates, profits, manufacturing and product information or other matters which come to notice in the course of official duties, must always be maintained.

Conflicts of Interest

Council Officials must avoid situations where their private interests' conflict with their Council procurement or disposal duties. Any actual, perceived or potential conflicts of interest are to be identified, disclosed and appropriately managed in accordance with the requirements outlined in Council's Conflicts of Interest Policy.

Gifts and Benefits

Council Officials must not by virtue of their position solicit, accept or acquire for any personal advantage, any gift or benefit from contractors or suppliers, both current and potential, or their representatives. Council's commitment to this is detailed in Council's Code of Conduct.

Value for Money

Value for money is an overarching principle governing purchasing and disposal which allows the best possible outcome to be achieved for Council. It is important to note that compliance with the purchasing specification is more important than obtaining the lowest price, particularly taking into

account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

~~An assessment of the best value for money outcome for any purchasing process should consider both price and non-price factors including:~~

- ~~• All relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as, but not limited to holding costs, consumables, deployment, maintenance and disposal;~~
- ~~• The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions, and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications, service and support.~~
- ~~• Financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);~~
- ~~• A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;~~
- ~~• The safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;~~
- ~~• Providing opportunities for businesses within the Wagga Wagga City Council Local Government Area to be given the opportunity to quote for providing goods and services wherever possible.~~

Procurement Thresholds and Policy Requirements

The requirements that must be complied with by Council Officials, including purchasing thresholds and processes, are prescribed within the legislation, this Policy and Council's Procurement and Disposal Manual.

Determining purchasing value is to be based on the following considerations:

- Inclusive of Goods and Services Tax (GST);
- The actual or expected value of a contract over the full contract period (including all options to extend); or
- The extent to which it could be reasonably expected that Council will continue to purchase a particular category of goods, services or works and what total value is or could be reasonably expected to be purchased.

Any purchasing activity must be undertaken in accordance with the Council Official's delegated purchasing authority limit as approved by the General Manager.

No purchasing activity is to be undertaken until it is approved by an Authorising Officer.

In some cases, suppliers may not respond to a request for quotation. In this instance, Council Officials must provide documentation to demonstrate their attempt to source the required number

of quotations as outlined in Table A, however non-responses should not delay any purchasing activity unless it would be considered inappropriate to proceed.

Table A

Purchasing Thresholds (inc GST)	Policy Requirements	
	Quotations	Conditions
Up to \$1,500 <u>\$5,000</u>	<u>Verbal quotes/estimates required in order to raise purchase order amount.</u> No <u>written</u> quotes required	Consult as to whether an existing Pre-Qualified Supplier Panel or Preferred Contract exists. Council Officials must ensure that they use their professional knowledge and expertise in the purchasing process.
Over \$1,500 <u>\$5,000</u> and up to \$50,000	Obtain at least two written quotes	Consult as to whether an existing Pre-Qualified Supplier Panel or Preferred Contract exists. If no contract exists, obtain two written quotations that are to be attached to the purchase order. <u>For orders over \$10,000, Council's Vendor Panel software is the method for obtaining quotations.</u>
Over \$50,000 and up to \$249,999.99	Obtain at least three written quotations	Consult as to whether an existing Pre-Qualified Supplier Panel or Preferred Contract exists. If no contract exists, obtain three written quotations from suppliers through an RFQ process, or use <u>using</u> Vendor Panel <u>(Council's prescribed software) for purchases over \$10,000. if applying an RFT process.</u> These quotations or Tenders are to be attached to the purchase order.
\$250,000 and above	Tender procedures apply	Consult as to whether an existing Pre-Qualified Supplier Panel or Preferred Contract exists. All Tendering activities must be facilitated by the Procurement Team. Legislative compliance requirements must be adhered to.

Simple Purchasing

Simple purchasing refers to the procurement of goods, services or works with a total value less than the Tender Threshold. The procedures to be followed when performing simple purchasing are set out in Council's Procurement and Disposal Manual.

Complex Purchasing

Complex purchasing refers to the procurement of goods, services or works with a total value greater than the Tender Threshold of \$250,000. The procedures to be followed when performing complex procurement are outlined in the Office of Local Government Tendering Guidelines for NSW Local Government and can be referenced in Council's Procurement Manual.

Outsourcing Council Services

When Council is outsourcing a service in which it has a significant interest, for example where it currently provides the service in-house, the Tender Evaluation Committee must comprise a majority of suitably qualified independent members.

Procurement Preference

Council prefers to purchase Australian products and services and to purchase them locally. Thus, where the results of the evaluation are equal, then Council will award the quotation or Tender to a local supplier.

Environmental Protection

Council Officers will, when evaluating quotations or Tenders, take into consideration the anticipated impact on the environment and show such consideration in their evaluation documentation. This may be achieved by procuring goods and services that will minimise their impact on the environment, including goods constructed from recycled or re-used products.

Purchasing from First Nations Businesses

Where possible, First Nations businesses are to be invited to quote for supplying goods and services under the Tender Threshold. A qualitative weighting may be offered in the evaluation of Quotations and Tenders to provide advantages to First Nations owned businesses, or businesses that demonstrate a high level of First Nations employment.

Disposal Program

Council will establish and maintain a disposal program for items such as vehicles, plant and computing equipment that is adopted by Council and forms part of the Long Term Financial Plan.

Council aims to achieve the best value for money for each disposal and will seek opportunities to achieve sale proceeds above Council's written down value for the asset, which must be confirmed with the Finance team.

Disposal Methods

The method of disposal is to be appropriate to the nature, quantity and location of the goods and should promote fair and effective competition to the greatest extent possible. Factors to be considered include:

- a) The likely market available for the goods;

- b) Time considerations;
- c) Council resources required to manage the disposal;
- d) Costs associated with the disposal such as transport, administration, storage, etc.;
- e) Perceived benefits from the disposal; and
- f) Whether the goods are of a heritage or hazardous nature or of polluting substances.

Council will not dispose of goods by gift or donation under any circumstances, including charities and other organisations.

All disposal processes must be undertaken in accordance with the provisions contained within Council's Procurement and Disposal Manual.

Tender Exemptions

Tender exemptions apply in the following instances:

- a) An emergency as defined by the Act;
- b) The purchase is from a Local Government Procurement (LGP) Contract NSW State Contracts, Procurement Australia Contracts and Preferred Supply Contract or Business Service. All LGP Preferred Supply Contracts have been established utilising a competitive public procurement process to pre-qualify suppliers that meet compliance requirements and offer optimal value for money to the Local Government sector.
- c) The purchase is under auction that has been authorised by Council;
- d) The goods or services are being supplied through a renewal or extension of the term of a contract (the original contract) where;
 - a. The original contract was administered through a public Tender process;
 - b. The invitation for Tenders contained provisions for the renewal or extension of a contract;
 - c. The original contract contains an option to renew or extend its term; and
 - d. The supplier's Tender included a requirement for such an option.
- e) A contract that is an environmental upgrade agreement (within the meaning of Part 2A of the *Local Government Act 1993* Section 55)
- f) A contract made with a person or body approved as a disability employment organisation under the *Public Works and Procurement Act 1912* for the purchase of goods or services in relation to which the person or body is so approved
- g) A contract arrangement between Council and the Electoral Commissioner for the Electoral Commissioner to administer the Council's elections, Council polls and constitutional referendums.

Note: When deciding about whether to conduct a public Tender or utilise a Tender exempt arrangement, Council should compare the cost and benefits of both processes.

The compliance requirements, time constraints, costs and risks associated with a public Tender should be evaluated against the value delivered by such a process. This should then be compared with the costs and benefits of using a Tender exempt arrangement which includes direct access to preferred suppliers, full regulatory compliance, risk mitigation, administrative efficiencies and cost savings.

Exemptions Relating to Policy Requirements for Quotations

The obligation to source quotations is not required in the following instances:

Procurement of particular goods or services:

- a) Utilities, but only including water;
- b) Local public notice advertisements that are required by legislation;
- c) State-wide public notice advertisements that are required by legislation;
- d) Annual memberships/subscriptions;
- e) Software license fees;
- f) Conference registration fees;
- g) Museum Exhibitions;
- h) Employment of temporary staff members through temporary personnel service agencies;
- i) Department of Land Information on-line transactions;
- j) Motor Vehicle Licensing and Registration;
- k) Postage;
- l) Wagga Wagga Civic Theatre Shows;
- m) Exhibitions for the Art Gallery.
- n) Small Public Art Works up to the value of ~~of \$10,000-\$25,000~~ (GST ~~in~~exclusive) where the Public Art Advisory Panel deem appropriate in accordance with Council's Public Art Policy.

Requirements when the Council Invites Tenders though it is not required to do so

Where considered necessary, Council may consider calling public Tenders in lieu of undertaking a request for quotation for purchases under the \$250,000 threshold (including GST).

This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through preferred suppliers.

If a decision is made to undertake a public Tender for contracts of less than \$250,000, a Request for Tender process entailing all the procedures for Tendering outlined in Council's procurement process and the legislation must be followed in full.

Sole Source of Supply (Monopoly Suppliers)

Where the purchasing requirement is over the value of ~~\$1,500~~\$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a Tender or quotation process. This is only permitted in circumstances where Council is satisfied and can evidence that there is only one source of supply for those goods, services or works.

Council must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the justification must be endorsed by the General Manager or Director, prior to a contract being entered into.

Note: The application of the “Sole Source of Supply” provision should only occur in limited cases and procurement experience indicates that generally not more than one supplier is able to provide the required goods and/or services.

Anti-Avoidance

Council shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to avoid exceeding the Tender Threshold of \$250,000, thereby avoiding the need to undertake a public Tender process.

For the purpose of this Policy, a signed purchase order is considered to be a contract.

Emergency Purchases

An emergency purchase is defined as an unanticipated and unbudgeted purchase which is required in response to an emergency situation as provided for in the *Local Government Act 1993*. In such instances, quotations and Tenders are not required to be obtained prior to the purchase being undertaken.

An emergency purchase does not relate to purchases not planned for due to time constraints. Every effort must be made to anticipate purchases required by Council in advance and to allow sufficient time to obtain quotations and Tenders, whichever may apply. Emergency purchases must have approval from the General Manager or their Delegate.

Varying a Contract

A Contract variation must only occur in the following circumstances:

- a) The variation is necessary for the goods or services to be provided; and
- b) The variation does not alter the underlying intent of the Contract; or
- c) The variation is a renewal or extension to the original termination date of the contract, in the circumstances when the original contract contained an allowance for such provision.

If the proposed variation does not meet the above conditions, a separate competitive purchasing process may be conducted in accordance with the relevant purchasing threshold.

The funds required to meet the cost of the variation must be available within the amount set aside in the Council adopted budget and must be approved in writing before commencement by a Council Official with the appropriate purchasing limit delegation.

Records Management

Records of all Tenders, requests for quotation and other purchases must be retained in compliance with the State Records Act 1998.

Legislative Context

The procurement of goods and services by Council must be undertaken in accordance with the provisions of Section 55 of the *Local Government Act 1993* and the Local Government (General) Regulation 2021, as well as the Policy and administrative requirements of Council.

Related Documents

- Statement of Business Ethics

- Wagga Wagga City Council – Procurement and Disposal Manual
- Code of Conduct
- Tendering Guidelines issued by the Department Local Government (Version 9 2009)
<https://www.olg.nsw.gov.au/sites/default/files/Tendering-Guidelines-for-NSW-Local-Government.pdf>
- Conflict of Interests Policy (POL 112)
- Delegations Policy (POL 060)
- Corporate Purchase Card Policy (POL 053)
- Legislative Compliance Policy (POL 101)
- Risk Management Policy (POL 079)
- Fraud and Corruption Prevention Policy (POL 100)
- Public Art Policy (POL 109)
- Regional Procurement Preference Policy (POL 064)
- Commonwealth Indigenous Procurement Policy: 1 July 2015
- Registrar of Indigenous Corporations at: <http://www.oric.gov.au/>
- ISO 20400: Sustainable Procurement
- Guidelines for Managing Conflicts of Interest in the Public Sector produced by the Independent Commission Against Corruption

Definitions

Term	Definition
Authorising Officer	A Wagga Wagga City Council employee who is registered in the delegation register as authorised by the General Manager to incur expenditure and claims for payment, within a specific monetary limit.
Complex Purchasing	The procurement of goods, services or works with a total value greater than the Tender Threshold as published in the Local Government Act 1993 or the associated Regulations.
Conflict of Interest	A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
Contract	A Contract is a legally binding agreement between the Council and another Party for the supply of goods and/or services. A Purchase Order is a Contract.
Council Official	Includes employees of Wagga Wagga City Council and Councillors.
Deduction	Is a fixed amount or percentage that has been authorised to be subtracted from an employee's income.
Expression of Interest (EOI)	An Expression of Interest is used to shortlist potential suppliers before then seeking detailed bids from the shortlisted Tenderers through an RFQ or RFT process.

Term	Definition
Grant	Is a sum of money given by Wagga Wagga City Council to an eligible recipient (grantee) for a particular purpose following an application and assessment process.
Preferred Suppliers	Include NSW Preferred Supply Contracts (which are specifically designed around local government requirements) or State Government Common Use Arrangements (where local government access is permitted)
Pre-Qualified Supplier Panel List	Is a list of suppliers that have been appointed for the supply of goods and/or services following a public Tender process undertaken by Council.
Procurement	The process involving all activities following the decision that a good or service is required. It involves the acquisition of goods and services and the disposal of goods.
Purchase	The acquisition of a good or service whether placing or transmitting an order orally, in hard copy, electronically via e-commerce, or buying across the counter to achieve council business and is inclusive of purchasing, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods, services equipment and related services, construction and service contracts. A purchase is not a Reimbursement, a transfer to another organisation of a Deduction, a Refund, a Grant or Sponsorship.
Refund	A repayment of a sum of money.
Reimbursement	A repayment of funds that have been expended by a Council Official undertaking business on behalf of Wagga Wagga City Council.
Requisitioning Officer	A Wagga Wagga City Council employee who has system access to raise a purchase requisition. This employee will not necessarily have purchasing authority, in which case, the requisition, and associated documentation is forwarded to an Authorising Officer for consideration.
Request for Proposal (RFP)	A Request for Proposal is a document that solicits proposals, often made through a bidding process, by the Council to potential suppliers, which is followed by an RFQ or an RFT process.
Request for Quotation (RFQ)	A Request for Quotation is a process with the purpose of inviting suppliers into a bidding process to bid on specific products or services.

Term	Definition
Request for Tender (RFT)	A Request for Tender is a process which is a formal, structured invitation to suppliers to submit a bid to supply products or services.
Simple Purchasing	The procurement of goods, services or works with a total value less than the Tender Threshold as published in the Local Government Act 1993 or associated Regulations.
Tender	Includes prices, bids, quotations and consultant proposals and means the lodgement of a Tender response containing all requested information and accompanying documentation.
Tender Threshold	The amount in dollars as determined and published in the Local Government Act 1993 or associated Regulations.

Revision History

Revision number	Council resolution	Council meeting date
1	Res No: 07/489.7	17 December 2007
2	Res No: 09/077	27 July 2009
3	E Team	July 2012
4	E Team	26 March 2013
5	Res No: 13/224.1	26 August 2013
6	Res No: 17/279	28 August 2017
7	Res No: 19/401	11 November 2019
8	Res: 22/354	17 October 2022