



Procurement Policy



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Document Control

Policy	Procurement Policy	Policy Number	TBA
Author/Reviewer	Executive Director Corporate & Community	Review Period and Date	Reviewed within 12 months of election/4 yearly - September

- This Procurement Policy (Policy) shall be reviewed within 12 months of an election, and thereafter at intervals of no greater than four years. Any review will ensure this Policy continues to meet all statutory requirements and the operational needs of Hilltops Council. The Policy may also be reviewed at other times as determined by Hilltops Council.
- This Policy commences on and from the date of adoption by Hilltops Council as listed in the document history and replaces all previous versions.

Document History

Date	Status	Version	Resolution	Description
20 December 2017	Draft	0.1		Presented to Hilltops Council for endorsement, public exhibition 42 days
20 December 2017	Draft	0.2	17/357	Endorse policy to be placed on public exhibition for 42 days
8 February 2018	Final	1.0	17/357	Placed on public exhibition with no submissions received – adopted.



1. INTRODUCTION

Hilltops Council (Council) is committed to procurement practices that achieve the best possible value for money, and employ highly transparent, accountable and ethically-sound processes. This is realised by conducting thorough evaluations of the whole-of-life cost of purchases, and ensuring that best practice procurement processes are communicated, understood and adhered to by all parties.

This Policy applies to Council's procurement functions including purchasing, tendering, contract management, payments and asset disposal as they relate to the acquisition, use and disposal of goods and services. Through observing this Policy, Council will be able to use procurement as an opportunity to manage the community's money wisely and to deliver much needed goods and services in a financially, environmentally and socially sustainable way.

2. OBJECTIVE

The objective of this Policy is to state Council's protocols in relation to its commitment to procurement practices that deliver the highest commercial and ethical outcomes.

It is Council's aim to;

- Ensure compliance with the *NSW Local Government Act 1993* and the *NSW Local Government (General) Regulations 2005* in relation to the procurement of goods and services;
- Achieve the best value for money and purchasing conditions through the effective and efficient use of resources;
- Clearly define a procurement framework including responsibilities and procedures for guidance of Council staff;
- Develop consistent and regular procurement practices to assist in streamlining processes for Council staff, whilst creating certainty of process for contractors and suppliers;
- Ensure that Council's procurement policies, practices and procedures demonstrate best practice, promote corporate responsibility and meet the highest level of public accountability;
- Ensure that acquisition planning and supplier evaluation is clearly linked to Council's strategic directions, and supported by efficient and effective contract management and evaluation;
- Use procurement practices that encourage sustainable competition;
- Manage risk and provide for the safety of Council staff, businesses and the community; and,
- Mitigate and manage the exposure to all risks associated with procurement.

3. APPLICABILITY

This Policy applies to all Council staff, businesses, organisations, members of the public and any other parties involved in procurement and tendering activities in relation to the operational requirements of the Council.

4. LEGISLATION and other REFERENCES

- *NSW Local Government Act 1993*
- *NSW Local Government (General) Regulation 2005*
- *NSW Local Government Amendment (Public Private Partnerships) Act 2004*
- Independent Commission Against Corruption publication Dec 2011 "Corruption Risks in NSW Government Procurement – The Management Challenge"
- Hilltops Council Code of Conduct
- *Commonwealth Work Health and Safety Act 2011 (WHS Act (2011))*
- *Commonwealth Work Health and Safety Regulation 2017 (WHS Regulation (2017))*
- *NSW Government Information (Public Access) Act 2009*



- Department of Finance Resource Management Guide no.503 - Whole-of-Life Costing for Australian Government Property Management 2014

5. DEFINITIONS

Contractors and Suppliers	Individuals, organisations or companies, other than employees of Council, that provide goods or services to Council.
Council Contract Register	The <i>NSW Government Information (Public Access) Act 2009</i> requires that Council maintain a publicly available register of contracts to which it is a party and which has, or is likely to have, a value of \$150,000 or more. This register must be published on Council's website.
Disability Employment Organisations	A person or body approved by the NSW Minister for Disability Services that conducts a business a principal purpose of which is to provide employment to persons with a disability.
Emergency Orders	A procurement made to fill an urgent, unexpected need when there is insufficient time to undertake competitive bidding.
Council Staff	Includes Hilltops Councillors, members of staff of Hilltops Council and delegates of Hilltops Council.
Local Supplier	Individuals, organisations or companies whose main business functions are based within the geographical Hilltops Local Government Area.
Non-Pecuniary Interest	A private or personal interest held by a member of Council Staff that does not amount to a pecuniary interest, for example a friendship, or membership of an association, society or trade union.
Pecuniary Interest	An interest held by a member of Council Staff that represents the reasonable likelihood or expectation of financial gain or loss.
Procurement Procedures	A document produced by Council which outlines the correct procedure for undertaking and managing the procurement process.

6. PROCUREMENT PRINCIPLES

Council's procurement activities will be carried out in accordance with this Policy and the related Procedures, and must incorporate the following principles;

6.1 Value for money

Council makes procurement decisions on the value for money of proposals, based on costs over the life cycle of a project. It is important to understand the lowest quoted price is not necessarily the best value for money. Price alone is not a sufficiently reliable indicator of value.

Instead, value for money is determined through comparative analysis of all the costs and benefits of each proposal over the 'whole of life', from sourcing raw materials to operating and eventual disposal. This costing is to be carried out as early as possible in the procurement process, and may be refined during planning stages prior to the commitment of funds.



Whole of life evaluation considers commercial, technical, financial, social, ethical, local economic, and environmental factors, and includes issues such as;

- Purchase price and consistency with standard market prices/rates;
- The ability to perform to required standards or capabilities and to a reasonable level of service; and
- Acquisition, maintenance, disposal and decommissioning, training, insurances, data management, staff and operating costs.

6.2 Open and effective competition

It is imperative that the best possible outcomes are available to Council, and that contractors or suppliers wishing to do business with Council are given a reasonable opportunity to do so.

This is achieved by ensuring that;

- All suppliers are provided equal access to open and fair competition to compete for Council business;
- Procurement procedures are prescribed and straightforward, and are communicated effectively to Council staff, contractors, suppliers, and the public;
- Contractors and suppliers have equal opportunity to clarify what is being sought;
- Council effectively engages a range of suppliers to encourage and maintain competition and minimise reliance on a single source; and
- Invitations to contractors or suppliers are extended to encourage competition among contractors and suppliers.

6.3 Transparency and accountability

When evaluating a proposal from a contractor or supplier for a procurement, Council staff must ensure that;

- Responsibilities and accountabilities of Council staff are acknowledged and accepted;
- All documentation provided to contractors or suppliers is clear and concise, and does not contain inconsistencies or ambiguity;
- The performance of prospective contractors or suppliers is investigated to ensure that they can provide a service that represents value for money;
- Criteria are established for assessing quotations/tenders before awarding a purchase;
- Clear and consistent communication is maintained with contractors/suppliers on their performance and obligations, with improvements encouraged; and
- Records are completed in accordance with relevant requirements, and are available for internal review for probity purposes.

7. ETHICAL BEHAVIOUR

Council staff must always act with integrity and proper concern for the public interest, and ensure that the following ethical obligations are met;

7.1 Fair and honest dealing

- All prospective contractors and suppliers are afforded equal opportunity to tender/quote for all goods and services required;
- Impartiality is maintained with documented procedures to eliminate the prospect of any conflict of interest or bias in tender decisions;
- Council will protect the commercial interests and confidential information of all potential contractors and suppliers. No information will be disclosed relating to information supplied through the tender process, except in the course of official Council business;
- Confidentiality of commercially sensitive material must be maintained in accordance with Council Policy at all times;



- Council supports sustainable work practices and minimal environmental impact as evaluation criteria in all procurement, and suppliers should demonstrate commitment to the environment;
- Council does not support the extension or division of contracts as means of avoiding periodic competitive tendering;
- Council Staff will eliminate any suppliers and contractors from the procurement process if they are found to be lobbying Councillors or staff during the procurement process; and
- Councils' Procurement Policy is to be made known to current or prospective contractors and suppliers in all dealings.

7.2 Supplier Contact

- All Officers are encouraged to research the market to identify new sources of supply for goods and services required by Council, and to encourage such sources to tender or quote details of their products/expertise to the Council;
- Any such contact must be made in accordance with this Policy, ensuring that through this contact there is no disadvantage to other contractors or suppliers; and
- Officers are encouraged to seek out and give consideration to proposals from disability employment organisations.

7.3 Conflict of Interest

Conflicts of interest may occur when an individual could be influenced, or could be reasonably perceived to be influenced, by a personal interest when carrying out public duties.

Council staff must avoid situations where private interests conflict with their procurement duties. A conflict of interest includes, but is not limited to, any pecuniary or non-pecuniary interests held by Council staff which may influence, or be seen to influence, the outcome of a procurement process. For example, Council staff may not participate in any contract or purchase agreement with family members, or with a firm in which a material interest is held.

Council staff must complete all appropriate forms and submit to the relevant parties as soon as practicably possible when disclosing an identified actual or perceived conflict of interest.

Council staff finding themselves in a situation where a conflict of interest may exist are required to immediately disclose the details to the General Manager.

7.4 Audit

Procurement activities undertaken by Council are subject to internal and external audits, and as such Council staff must ensure that all documentation is complete and available for review.

7.5 Responsibilities

Where the instructions set out in this Policy are not adhered to, the matter will be brought to the attention of the General Manager.

Breaches of this Policy will be dealt with in accordance with the Council's Code of Conduct.

8. QUALITY ASSURANCE

Quality is a core element in the provision of all goods, services and works, and as such Council encourages contractors and suppliers to hold the relevant Australian Standards and International Standards pertaining to their business functions.

At the discretion of the actioning member of Council staff, quality assurance may be a mandatory condition of the procurement of a good or service.



9. RISK MANAGEMENT

To reduce risk associated with procurement activities, Council staff must:

- Determine the level of risk associated with the method of procurement to be used;
- Undertake a documented risk assessment for all procurement requiring tenders to be issued, and for other procurements at the discretion of the delegated purchasing officer;
- Only approve the expenditure up to the delegated monetary level and within budgetary limits;
- Obtain approval for the commitment of money from an identified budgetary source prior to commencing a procurement process;
- Ensure all contractors or suppliers are registered and contracted with Council through a process which confirms compliance with WHS requirements, environmental obligations and insurances are in place;
- Provide contractors or suppliers with Council's contract documentation prior to supply;
- Maintain a contract register and procedures for contract variation and contractor evaluation;
- Ensure Council's purchasing and procedures align with the Independent Commission Against Corruption (ICAC) Procurement Policies and the Office of Local Government Guidelines;
- Using, where possible, Council's standard terms and conditions; and
- Undertake available training on Council's policies, procedures and systems relating to procurement.

10. LOCAL PREFERENCE

Council supports the strengthening of local economic capacity and will give preference to a local supplier where the assessment of all selection criteria is equal.

11. SOLE SOURCE OF SUPPLY

Where a purchasing requirement is of a specific nature that can only be reasonably obtained from one supplier, a procurement may be permitted without undertaking a tender or quotation process where:

- There is a genuine need for a proprietary product to ensure compatibility with existing equipment and there is a sole source of supply for the proprietary product;
- A genuine emergency situation arises that seriously threatens employees, customers, assets or corporate reputation;
- An urgent and important operational need where the welfare of customers or employees faces an impending and serious threat; or,
- There is a need for unique intellectual property or expertise that is available from only one supplier.

This approach may only be used for non-complex, low risk procurements with a value under the tendering threshold. Using a sole source of supply is only permitted under circumstances where Council is satisfied and can provide evidence that there is only one source of supply for those goods, services or works. Council must regularly assess the market to determine that one sole source of supply genuinely exists with no alternative suppliers. Once determined, justification for the use of a sole supplier must be recorded in writing and approved by a member of Council staff with sufficient delegation.

Council may also, at its discretion, invite expressions of interest to effectively and publicly determine that one sole source of supply exists.



12. WORK HEALTH AND SAFETY

When undertaking purchases for goods and services, Officers need to comply with the requirements of the WHS Act (2011) and WHS Regulation (2017).

The Council is committed to providing a safe working environment for all Council staff, suppliers, contractors, volunteers and visitors where materials and equipment purchased are fit for purpose and comply with legislative and workplace requirements.

13. PROCUREMENT PROCEDURES

The Procurement Procedures are contained in a separate document which sets out the required actions for Officers undertaking any procurement. The Procurement Procedures delineate between the requirements for procurements;

- With a total value less than \$150,000 inclusive of GST;
- With a total value in excess of \$150,000 inclusive of GST; and
- The engagement of contractors

14. DELEGATIONS

Officers must, prior to undertaking any procurement activities, establish an estimated total cost over the life of the procurement. Approval to commit the estimated expenditure must also be sought from the appropriate delegate. A list of delegates and their thresholds for the commitment of public money can be found in the Procurement Procedures.

15. CONTRACTS

A tender should be called when any contract relating to the procurement of goods or services, that will be undertaken in either single or multiple purposes from the same supplier over any two (2) year period, exceeds \$150,000 in value (GST Inclusive).

Council will develop and maintain systems and procedures to record appropriate information pertaining to all new contracts, which will be kept in an internal database. All relevant tenders will also be recorded and made available on the Council Contract Register.

Contracts governing the procurement/lease of land and property are excluded from this Council Policy.

16. EMERGENCY ORDERING PROCEDURES

The use of Emergency Orders is limited to;

- Breakdown at water or sewerage treatment plants or other Council infrastructure, which exposes Council to a public, staff or environmental safety risk;
- Breakdown of major plant with no suitable temporary replacement available;
- Goods and services as reasonably required by Emergency Services in an emergency; and
- Emergency works as approved by the General Manager.

17. DISPOSAL OF ASSETS

The disposal of plant, equipment and goods must be carried out in a manner consistent with relevant Council policies and procedures.

19. COUNCILS TERMS AND CONDITIONS

Council has developed specific terms and conditions which apply to all purchasing. Contractual arrangements must be documented in writing based on standard terms and conditions. All terms and



conditions relating to a purchase must be settled in advance of any commitment being made with a supplier.

A copy of Council's terms and conditions can be found on the Hilltops Council website.