



Procurement Policy

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Section / Department	Financial Services
Linkage to Our Community Vision	5 Civic Leadership
Objective	5.1 Council is an organisation that embraces business excellence
Strategy	5.1.1 Financial sustainability is maintained through effective short and long term financial management



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1. Purpose

The purpose of this Procurement Policy is to:

- a) Provide guidance to the Council to allow consistency and control over Procurement activities and effective management of outgoing expenditure with contracted third parties;
- b) Demonstrate accountability, governance and innovation to the ratepayers of Bellinghen Shire Council and;
- c) Provide guidance to the application of best practice and continuous improvement in Council Procurement; Increase the probity and transparency of obtaining the right outcome when purchasing goods and services.

2. Definitions

- **Auditable:** Documented clearly and in sufficient detail as to be able to be independently reviewed.
- **Commercial in Confidence:** Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies, and process information.
- **Conflict of Interest:** Personal or professional relationships where the financial gain or other interests of another party and the outcome of a Council decision may be unfairly influenced or effected.
- **Contract:** A voluntary, deliberate, and legally binding agreement between two or more competent parties.
- **Council Staff:** Includes full-time and part-time Council Staff, and temporary employees, contractors and consultants while engaged by the Council.
- **Delegation:** Approval from the General Manager to Council officers - an appropriate level of authority to incur and approve expenditure of Council funds.
- **Expression of Interest (EOI):** A response to an open approach to the market requesting submissions from bidders interested in participating in procurement. It is used to identify potential suppliers and capable of delivering the required goods or services.
- **Local Business:** A 'local' business is defined for the purpose of this policy as any business that has their main base in the Bellinghen Shire Council geographic area.
- **Non-preferred suppliers:** Suppliers not pre-qualified as preferred suppliers by Council for the supply of goods and services.
- **Preferred Suppliers:** Suitably qualified suppliers that have been pre-qualified to supply goods and services to Council and have mandatory requirements (specialist skills, licences, qualifications, capability).



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- **Probity:** Strict adherence to a code of ethics based on undeviating honesty especially in commercial (monetary) matters and beyond legal requirements.
- **Procurement:** Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
- **Sustainability:** Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
- **Tender:** An offer received in writing in response to an invitation to Tender and in accordance with the provisions prescribed by Part 7 of the Local Government (general) Regulation 2005, to provide goods, works or services for a price.

3. Policy

3.1 Procurement Objectives

The following objectives apply to all procurement activities under this policy. Purchases are to be:

- a) Lawful
- b) Fair
- c) Transparent
- d) Auditable
- e) Able to deliver value for money
- f) Ethical and environmentally sustainable
- g) Appropriately risk managed and
- h) Open to continues improvement and development

3.2 Purchasing and Quotation Requirements

The following table outlines the minimum requirements for the procuring of a good or service for Council in each value range. The Project Manager is responsible for initiating the appropriate procurement process based on the approximate value of the contract of goods, works or services required.



Expenditure amount including GST	Minimum quotation requirements
Any \$value where live contract with agreed pricing	No quotes required. Use best price/ supplier from contract and raise PO within correct delegation.
Up to \$10,000	Minimum 1 quote (verbal or written) required
From \$10,000.01 - \$50,000	Minimum 2 documented written quotes required
From \$50,000.01 - \$250,000	Formal request for quotation (RFQ). Minimum 3 documented written quotes required
From \$250,000.01 +	Formal request for tender (RFT) in accordance with the requirements of section 55 of the Local Government Act 1993 and Part 7 of the Local Government (General) Regulations 2005.

3.3 Purchasing Pathway

Please refer to the Council's Purchasing Pathway document and contact the Procurement Officer at the earliest instance to get direction about how to approach the market. This must be done on all orders **over \$50,000** prior to speaking with a potential supplier or deciding the market approach. Any staff member raising an RFx over the value of \$50,000 must fill out an authority to procure form to get a contract number from the Procurement Officer.

3.4 Quotations

The assessment of quotations will be objective, consistent, documented, transparent and undertaken in accordance with the Council's Procurement Procedures. Council will only accept one quotation from each supplier; suppliers will not be given an opportunity to re quote for the supply of goods and services unless the scope of work changes.



3.5 Contract length and determination of expenditure amount

The aggregated or cumulative cost of a contract is to be used in determining the relevant expenditure amount even if the contract runs over more than one accounting period.

You must consider the whole-of-life costings including;

- **Capital costs:** fixed, one-time cost incurred to buy, install, or construct an asset.
- **Operational costs:** day-to-day running cost of the asset (e.g., consumables, accessories etc).
- **Maintenance costs:** costs associated with keeping the asset in good condition.
- **Replacement and disposable costs:** arise from replacing the asset/ components and disposing them.

3.6 Preferred Suppliers

Council will invite expressions of interest through public advertisement for suppliers to be established as preferred suppliers for goods and services frequently used by Council.

3.7 Use of Non-Preferred Suppliers

Non-preferred suppliers must meet Council's minimum requirements in respect of warranties, contractual arrangements, legal entity status, insurances/licences and level of risk.

3.8 Delegation Authority & Order Splitting

Authorised officers must have appropriate levels of authority to incur and approve expenditure. The level of delegated authority for authorised officers is applicable to all purchases.

Order splitting with the intention of avoiding upper procurement threshold levels, is inconsistent with the objectives of the procurement policy and is prohibited. Under no circumstances shall orders be split so that the total value of the order falls under the amount of the officer's authority level. If an entire order is of greater value than the individuals delegated authority level, it must be referred to the appropriate person for further authorisation.



3.9 Procurement Methods

Council will make its purchases using the following methods:

1. Direct sourcing and purchasing from a preferred supplier where applicable.
2. Obtaining written quotations or a formal Request for Quotation (RFQ) from a preferred supplier where applicable.
3. Utilising contractual arrangements in place from Regional, State and Federal government agencies.
4. Tendering in accordance with section 55 of the Local Government Act 1993.

Council will have scoring and other processes in place for the application of these procurement methods.

3.10 Evaluation

Purchase evaluation criteria and weightings will vary according to the particular procurement under consideration. These will be provided in the purchase documents or requirements on a case-by-case basis. Evaluations will consider Price, Risk, WH&S, Quality, Value for Money, Technical Ability, Delivery Outcomes and Benefits and Local Business Preference as determined in Section 4.9 in this policy.

Evaluation Reports and Conflict of Interest Declarations to ensure the transparency and audit trail of the procurement and in accordance with Council's Records procedure will support all Evaluation processes of high value and high risk.

3.11 Exceptions of this policy

Council is exempt from the requirement to seek tenders and quotations as detailed below. Where the exceptional circumstances provision is being enacted the delegated council officer must obtain documented approval for the procurement to continue. Approval is to be obtained from the General Manager.

1. Emergency Situation

This process aims to accommodate urgent procurement needs, while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration when:

- A state of disaster declared under the Emergency Management Act 1986 or any other emergency;
- declaration made by the Premier;



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- An incident declared by an accountable officer where the safety or security of any person or property associated with the Council is threatened and;
- An external incident to which an accountable officer has authorised the provision of urgent support.

This exemption applies only to the purchases as part of Council's immediate and required response to a critical incident, and only where adherence to existing policies would hinder the ability to effectively and appropriately respond to that incident. The General Manager, regardless of whether the expenditure exceeds financial delegation, may also provide approval.

2. Exemption under the Local Government Act 1993

Section 55 (3) of the *Local Government Act 1993* (NSW) provides a number of exemptions from the need for councils to call for tenders for goods and services. Council may procure under a 'prescribed entity' and in compliance under s55 of the *Local Government Act 1993* (NSW) and the *Local Government (General) Regulation 2005* (NSW).

Exemptions and alternative procurement strategies from seeking the required quotations and tenders may involve:

- Section 355 of the *Act* provides that a function of council may be exercised in a number of ways. For example, a council may exercise its functions jointly by the council and another council or councils (e.g. MNCJO).

3. Other Exceptions

Some procurement is unique in nature. Council will develop an effective procedure to capture, authorise and provide adequate governance to ensure value for money. Examples include:

- Sole or specialist supply under \$250,000.00 (GST inclusive) based on detailed business case and most advantageous Procurement Strategy approved by the General Manger;
- Items of a unique character that standard purchasing processes (obtaining three quotes or public tender) do not apply. An example of a "unique" item purchase is the purchase of art works, specialist software, or performance of an artist or performer in a promotion of a Council financed event;
- Intellectual property or unique support from the original supplier to meet compatibility; and
- Statutory payments or Government rebates such as superannuation or worker's compensation premiums.



4. Policy Detail

4.1 Standards of Behaviour and Ethical Principles

When undertaking or participating in procurement activities, council officials, suppliers and contractors are required to behave in accordance with the Bellinghen Shire Council Code of Conduct. In addition, Council officials shall behave in accordance with the following standards of behaviour and ethical principles at all times.

1. **Honesty and fairness:** Council officials must conduct all procurement and business relationships with honesty, fairness, and probity at all levels.
2. **Accountability and transparency:** Council officials must ensure that the process for awarding contracts and making purchasing decisions is open, clear, fully documented, and defensible.
3. **Consistency:** Council officials must ensure consistency in all stages of the procurement process.
4. **No conflict of interests:** A council official with an actual or a potential conflict of interests must address that interest without delay.
5. **Rule of law:** Council officials must comply with all legal obligations. These include, but are not limited to, the provisions of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).
6. **No anti-competitive practices:** Council officials must not engage in practices that are anti-competitive or engage in any form of collusion.
7. **No improper advantage:** Council officials must not engage in practices that aim to give a potential tenderer or supplier an advantage over others unless such advantage stems from an adopted Council procurement policy such as a local preference policy.
8. **Intention to proceed:** Council officials must not invite or submit tenders without a firm intention and capacity to proceed with a contract, including having funds available.
9. **Co-operation:** Council officials must encourage business relationships based on open and effective communication, respect, and trust, and adopt a non-adversarial approach to dispute resolution.

4.2 Value for Money

Council officials shall conduct procurement activities in such a way that they obtain best value for money through the most appropriate goods or services provider.

Value for money does not automatically mean the 'lowest price'. It is determined by considering all the factors that are relevant to the proposed contract or purchase and may include: experience, quality, reliability, timeliness, service, risk profiles, environmental and



sustainability considerations, social impacts, and initial and ongoing costs. These are all factors that can make a significant impact on benefits and costs.

4.3 Quality Standards

Quality assurance is a systematic process that should be bound into the procurement process. It is the way the quality of an end product, as expressed in the functional specifications, can be assured in terms of fitness for purpose and in meeting user requirements. Council officials should consider the following:

- When preparing a specification, specify the appropriate recognised Quality Systems Standard or Policy.
- When considering tenders or suppliers, treat the specified Quality Systems Standard or Policy as a deliverable under the contract like any other mandatory requirement.
- When monitoring performance, make sure the supplier or successful tenderer performs to the specified Quality Systems Standard or Policy.
- Utilising Contractor Performance Reporting systems which records contractor and consultant performance and from which information on prior performance can be obtained.

Alternatively, or in addition, council officials may request that a successful tenderer or supplier meet a recognised Quality Control system standard before the service or product is accepted by council. Under such an approach, council officials need to ensure that the required quality standards are clearly set out in the tender documents, contract and/or purchasing documents and that the process for assessment of quality, including steps available for corrective action, is clearly defined.

4.4 Risk Management

Risk management is integral to the selection, evaluation, monitoring and review process for procurement. All risk management activities shall be recorded to ensure an accountability trail. All prospective tenderers and suppliers shall be informed of risks that the council is aware of in respect to the works being undertaken.

Tenderers and suppliers are expected to undertake a risk management approach as part of their obligations under every contract and agreement.

4.5 Confidentiality and Disclosure

Council officials must not disclose information received from tenderers or suppliers that is intellectual property, proprietary, commercial-in-confidence or otherwise confidential, without the tenderer's or supplier's prior consent. In addition, council staff or councillors



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must not disclose information regarding the specific details of a procurement process, including a recommendation of a tender evaluation or assessment panel before the outcome of the tender has been determined.

Where a council is dealing with a tender pursuant to section 55 of the Act and confidential information needs to be disseminated to councillors for the purpose of deciding whether or not to accept any submitted tender, the confidential information should be issued as a separate confidential attachment to the council report with the non-confidential information included in the council business paper which is available to the public.

Council officials are reminded that the *Local Government Act 1993* emphasises openness and transparency in decision making, therefore officials should consider whether any information provided in a report to the council is intellectual property, proprietary, commercial in-confidence or otherwise confidential before electing to report to Council in closed session.

Section 10A of the *Local Government Act 1993* outlines the circumstances under which a council or council committee meeting may be closed to the public.

Within the procurement process, council officials must be mindful of their responsibilities under the provisions of other relevant pieces of legislation such as s.12 of the *Local Government Act 1993*, the *Privacy and Personal Information Protection Act 1998*, and the *Government Information (Public Access) Act 2009*.

4.6 Record Maintenance

In undertaking procurement activities, Council officials shall maintain all appropriate records. Council's procurement framework shall integrate with Council's Records Policy and records procedures to ensure that records are appropriately managed.

4.7 Environmental and Sustainability Goals and Objectives

Purchasing Goals:

Wherever possible, Council officials and contractors will pursue the following goals and adhere to the specified objectives when purchasing products and services (noting 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.



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- Climate Change - Endeavor to purchase the most efficient and sustainable products using the least water, electricity and fuel in order to limit council emissions and impacts on the climate.
- 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.
- Biodiversity & Habitat Protection - purchase in accordance with biodiversity and conservation objectives.
- Value for Money - purchase for best value for money in the long term, bearing in mind section 3 above.

Objectives:

Council will aim to achieve the following objectives through sustainable purchasing:

- Eliminate unnecessary inefficiency, waste, and expenditure.
- Contribute to the combined purchasing power of local government to further stimulate demand for sustainable products, including materials collected through council's kerbside collection.
- Contribute to the objectives within the Corporate Carbon Plan and Councils Climate Emergency declaration
- Increase awareness about the range and quality of products available.
- Deliver councils 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.
- Support local businesses and organisations.

4.8 Procurement Processes and Technology

Processes and technological systems which are in alignment with this policy shall be developed or obtained to facilitate and provide direction on the procurement process within Council. The processes and technological systems shall be clear, detailed, efficient, cost effective and up to date.

Process documents and user guides/manuals are to be stored in a central location which is readily accessible to all relevant Council officials.

Council officials shall comply with the processes and not seek to circumvent controls contained with processes or technological systems which are intended to ensure compliance with this policy.



4.9 Local Business Preference

This section of the Procurement Policy supersedes policy number PO-00010, titled “Procurement – Local Preference Policy” adopted by Council on 23 July 2014.

Council officials should encourage and facilitate local suppliers and service providers to take part in the procurement process. As a general principle, where all other factors are equal Council will give preference to local suppliers.

Where a local business is higher in price than a supplier or provider not based in the Bellinghen Shire Council geographical area (all else being equal), a local preference advantage may be activated.

A Local business is defined as having its principal place of business within the Bellinghen Shire Local Government Area, and has been operating or is proposing to operate within a market in the Bellinghen Shire Local Government Area. The onus will be on the supplier claiming to be a Local Supplier to provide the necessary supporting evidence to establish that it is a Local Supplier.

The Local Preference advantages are as follows:

- a) Purchases up to \$50
Local Preference advantage = 10%

- b) Purchases from \$50.01 to \$3,000
Local Preference advantage = 5%

- c) Purchases from \$3,000.01 to \$15,000
Local Preference advantage = 3% up to a maximum of \$400

- d) Purchases from \$15,000.01 to \$75,000
Local Preference advantage = 2% up to a maximum of \$600

- e) Purchases in excess of \$75,001
No local preference advantages at this level of procurement.



5. Procurement Under Contract

Please advise the Procurement Team on any contract being taken out above the value of \$50,000.

All contractual relationships must be documented and based on standard terms and conditions. Terms and conditions must be settled in advance of any commitment being made with a supplier.

All contract documentation must be recorded, particularly the executed contract agreement, conditions of contract, specifications, and letter of acceptance. Other conditions of contract to record are listed below:

- **Insurance requirements:** ensuring a copy of required insurance certificates are held, and maintained current, by council.
- **Occupational Health and Safety (OHS):** documentation and systems have been reviewed and confirmed.
- **Risks:** have been assessed and any risk management plan which has been developed as part of the tender process has been reviewed to identify, monitor and manage all risks over the life of the project contract in order to achieve project objectives and a value for money outcome.

5.1 Contract Management

The purpose of contract management is to ensure that the council, and where applicable, its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

- establishing an agreed understanding of the contract with the supplier;
- understanding the background to the contract and any existing relationship with the supplier;
- outline any subcontracting agreements;
- establishing a system for monitoring and achieving the responsibilities and obligations of both parties;
- maintaining robust internal contract processes, including the utilisation of a Contracts Register;
- to support Contract management, compliance, milestones and financial commitment;
- means of early recognition of key issues such as variations, performance, and identification of solutions.

The responsible officer is accountable for the day-to-day administration of the contract and key tasks including:



- Issuing directions to the contractor
- Negotiating disagreements
- Monitoring, recording and reporting
- Assessing claims made against the work undertaken and certifying payments
- Assessing, referring and/or authorising contract variations
- Determining the quality of materials and workmanship, including professional standards
- Issuing notices and dealing with payment provisions
- Ascertaining losses or expenses by the contractor due to directions
- Assessing and determining any extensions of time applications
- Determining and formally notifying the date of practical completion
- Determining completion and issuing the final certification

Council staff may utilise a Contract under a prescribed entity (for example Local Government Procurement, Regional Procurement, NSW Buy). If entering a Contract under one of these entities, you must quote the relevant Contract number on all documentation to ensure the supplier is aware Terms and Conditions are based under these contracts.

5.2 Dispute Resolution

All council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalation leading to legal action.

5.3 Variations to Contract

Clause 165 of the Local Government (General) Regulation 2005 (NSW) prescribes the contract and any variation or discharge of the contract be in writing.

Contract variations must be approved by an appropriate officer, in accordance with delegation authorisation limits. Consideration should be given to the cumulative impact of variations, to ensure that the scope of the original contract is not significantly altered, and that a separate procurement process is not required.

Contract variations should be supported by proposals with detailed description of the nature of the variation, with associated cost, time and scope implications. The variation proposals and approval documents must be retained in accordance with Council's records procedures, to promote accountability and transparency in decision making.

5.4 Contract Extensions

Contracts are extended only if the original contract includes extension options. Contract extensions must be approved by an appropriate officer, in accordance with delegated authorisation limits. Extensions must be approved before the expiration date of the original contract or previously extended term, for continuity in the provision of services.



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There must be documented evidence that supplier performance has been assessed before a contract extension is approved and that the terms of the contract extension have been mutually agreed by Council and the supplier.

Documents for approval of contract extensions must be retained in accordance with Council's records procedures, to promote accountability and transparency in decision making.

6. Roles and Responsibilities

The Governing Body of Council is responsible for the acceptance of tenders which are not able to be accepted under delegated authority.

The General Manager has overall responsibility for the operation of the procurement process within Council.

The Procurement Advisory Group; comprised of the Chief Financial Officer, the Deputy General Manager Operations, the Deputy General Manager Corporate & Community and the Procurement Team is responsible for the internal oversight of Council's procurement function. The Procurement Advisory Group meets monthly to:

- review contracts and major procurements which are upcoming, in progress and recently complete.
- ensure best practice and compliance is in place, to control fraud and corruption risks.
- review progress on the evolution of Council's strategic procurement framework.

All Council Staff are responsible for following Council's procurement policy, processes and procedures. To assist in building anti-corruption safeguards within the procurement process and council operations, council officials shall ensure that potential tenderers and suppliers are informed that unethical or inappropriate behaviour will not be tolerated. This will typically be through the provision of a copy of Council's Statement of Business Ethics as part of the tender document package.

Tenderers and suppliers should also be informed about what to do if they suspect corrupt conduct and what action a council will take if it suspects unethical or corrupt behaviour.

7. References

- Local Government Act 1993
- Local Government (General) Regulations 2005
- NSW Government Information (Public Access) Act 2009
- Office of Local Government: Tendering Guidelines for NSW Local Government (Oct 2009)



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- Office of Local Government: Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (March 2013)

8. Policy History

Version Number	Date	Brief Description	Council Minute Number
1.0	28/10/2010	Initial Adoption	10.019/10
2.0 (draft)	27/04/2016	Version 2.0 Draft	
2.1 (draft)	22/11/2017	Version 2.1 Draft	171/17
2.1	28/02/2018	Version 2.1	026/18
3.0	08/02/2021	Version 3	

9. Attachments

- Quick PO limits
- Purchasing Pathway
- Section 55 (3) of the *Local Government Act 1993* (NSW)



Quick PO Limits

Description	Quick Po Limit
Advertising and media	5,000
Business services	1,000
Cleaning	1,000
Community support and events	1,000
Construction and Operations services	5,000
Energy and utilities	10,000
Construction Materials, Consumables and Tools	1,000
HR services	1,000
Insurance	2,000
IT and telecoms	1,000
Library services	1,000
Office related supplies and services	1,000
Parking	5,000
Parks, gardens and Pools	5,000
Plant and vehicles	5,000
Postage and freight	1,000
Property	1,000
Repairs, Maintenance & Facility Management	1,000
Roads	10,000
Signs and barriers	5,000
Subscriptions and memberships	1,000
Travel	-
Waste management and landfill	5,000
Water and sewerage	10,000



Purchasing Pathway

Max Amount (Inc GST) Threshold	PURCHASING PATHWAY RULE	NOTES
ANY \$VALUE WHERE LIVE CONTRACT WITH AGREED PRICING	NO QUOTES NEEDED. USE BEST PRICE/SUPPLIER FROM CONTRACT AND RAISE PO TO EFFECT DELEGATION	For example, contracts from Local Government Procurement, Regional Procurement Australia and bespoke BSC contracts. See Procurement Officer for details if you do not know or want to see if one is available to use. Best price is determined as either: the best price on the contract, the best score as per the overall evaluation score or the councils bespoke best scoring supplier as determined in the contract handover document. This is an allowable (and encouraged) reason to override any system set quote requirements. Override Requests may be sent to the Procurement Officer for approval for this reason. Best price supplier from any group of available suppliers must be utilised. Approval to select any other supplier/price for a different reason must be made to an alternative authorising officer. If using an LGP panel contract, comparable quotes can be obtained via VendorPanel and details attached within the Altus Purchase Request.
\$0 - 10,000.00	ONE QUOTE (VERBAL OR WRITTEN) REQUIRED	PO must be issued prior to commitment. All work can be done in Altus to raise the PO ('Quick PO' or 'Purchasing' method). PO approvals required will be in accordance with category risk levels and requestors delegation. Any requests raised via 'Purchasing' will always require pre-approval before can get quotes.
\$10,000.01 - \$50,000.00	2 X QUOTES (WRITTEN) REQUIRED	PO must be issued prior to commitment. All work can be done in Altus to raise the PO (using 'Purchasing' method). Any requests raised via 'Purchasing' will require automated pre-approval before can get quotes, in addition to appropriate delegate approval before the order is placed.
\$50,000.01 - \$250,000	ENGAGE PROCUREMENT AND SEEK GUIDANCE. Likely Formal RFQ TO BE ISSUED TO MIN 3 SUPPLIERS.	Contact the Procurement Officer (phone or email) at the earliest instance to get direction about how to approach the market. This must be done prior to speaking with a potential supplier or deciding on market approach. TENDER REQUIRED WHERE ESTIMATED EXPENDITURE EXCEEDS \$250,000. RFQ TO BE ISSUED TO MIN 3 SUPPLIERS, but the Procurement Officer may provide alternative approaches to leverage available contracts, lot together work, or conduct a more detailed quote/tender process. Assessment of the approach will be based on risk, resource availability and market opportunities. Procurement will assist the requestor in any process as determined, based on risks and/or experience of the requestor.
\$250,000.01 +	Legislated Limit in Section 163 of The Local Government (General) Regulations 2005. Formal RFT or leverage already approved contracts through a prescribed organisation (such as LGP). All purchases to be registered and agreed with the Procurement Team	Contact the Procurement Officer (phone or email) at the earliest instance to get direction about how to approach the market. This must be done prior to speaking with a potential supplier or deciding on market approach.



Section 55 (3) of the Local Government Act 1993 (NSW)

Division 1–Tendering

55 Requirements for tendering

(1) A council must invite tenders before entering into any of the following contracts—

- (a) a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council,
- (b) a contract to carry out work that, under some other contract, the council has undertaken to carry out for some other person or body,
- (c) a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council,
- (d) a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body,
- (e) a contract for the provision of goods or materials to the council (whether by sale, lease or otherwise),
- (f) a contract for the provision of services to the council (other than a contract for the provision of banking, borrowing or investment services),
- (g) a contract for the disposal of property of the council,
- (h) a contract requiring the payment of instalments by or to the council over a period of 2 or more years,
- (i) any other contract, or any contract of a class, prescribed by the regulations.

(2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations.

(2A) Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders.

(3) This section does not apply to the following contracts—

- (a) subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and, if a rate is so specified, at a rate not exceeding the rate so specified,
- (b) a contract entered into by a council with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown,
- (c) a contract entered into by a council with another council,



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- (d) a contract for the purchase or sale by a council of land,*
 - (e) a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A),*
 - (f) a contract for purchase or sale by a council at public auction,*
 - (g) a contract for the purchase of goods, materials or services specified by the NSW Procurement Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and, if a rate is so specified, at a rate not exceeding the rate so specified,*
 - (h) a contract for the employment of a person as an employee of the council,*
 - (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders,*
 - (j) contract for which, because of provisions made by or under another Act, a council is exempt from the requirement to invite a tender,*
 - (k) a contract made in a case of emergency,*
 - (l) a contract to enter into a public-private partnership,*
 - (m) if a council has entered into a public-private partnership—a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12),*
 - (n) a contract involving an estimated expenditure or receipt of an amount of—
 - (i) less than \$250,000 or another amount as may be prescribed by the regulations, or*
 - (ii) less than \$150,000 or another amount as may be prescribed by the regulations for a contract involving the provision of services where those services are, at the time of entering the contract, being provided by employees of the council,**
 - (o) a contract that is an environmental upgrade agreement (within the meaning of Part 2A),*
 - (p) a contract or arrangement between a council and the Electoral Commissioner for the Electoral Commissioner to administer the council's elections, council polls and constitutional referendums,*
 - (q) 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.*
- [Note: Despite the person or body being approved under the Public Works and*



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Procurement Act 1912, that Act does not otherwise apply to the procurement of goods and services by or for a council.]

(4) A council that invites tenders from selected persons only is taken to comply with the requirements of this section if those persons are selected—

(a) from persons who have responded to a public advertisement for expressions of interest in the particular contract for which tenders are being invited, or

(b) from persons who have responded to a public advertisement for recognition as recognised contractors with respect to contracts of the same kind as that for which tenders are being invited.

(5)–(7) (Repealed)

55A Extended operation of section 55 to council-related entities

(1) A council must comply with the requirements of section 55 (including any regulations made under that section) even though the contract to which that section applies involves something being done to or by an entity that the council has formed or participated in forming.

(2) However, if the entity concerned is formed under a public-private partnership, subsection (1) has effect only to the extent that the contract is not part of a project that has been assessed or reviewed in accordance with Part 6 of Chapter 12.

(3) In this section—

"entity" means any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.