

1. PROTOCOL OBJECTIVES

- 1.1 To ensure persons engaged in purchasing goods and services for Council at all times pursue the objective of value for money, promote open and effective competition and conduct themselves in an impartial, fair and equitable manner.
- 1.2 All council staff involved in general purchasing, obtaining tenders and quotations, and arranging any contracts for the supply of goods or services shall ensure that all activities are conducted in accordance with:
 - 1.2.1 This Purchasing Protocol
 - 1.2.2 Council's Purchasing Procedure & Guidelines for Tendering
 - 1.2.3 Council's Code of Conduct
 - 1.2.4 Any approved amendments to the protocol and guidelines
 - 1.2.5 Local Government Act 1993
 - 1.2.6 Local Government (General) Regulation 2005 – Part 7
 - 1.2.7 Work Health & Safety Act 2011
 - 1.2.8 Work Health & Safety Regulation 2011.

2. BACKGROUND

- 2.1 Wollondilly Shire Council recognises that:
 - 2.1.1 Adopting appropriate best practice purchasing principles, policies and procedures for all goods and services will enable the achievement of council objectives such as sustainable and socially responsible procurement; bottom-line cost savings and better services for communities.
 - 2.1.2 The elements of best practice applicable to local government purchasing incorporate:
 - 2.1.2.1 principles including ethics, value for money, responsibility and accountability;
 - 2.1.2.2 guidelines giving effect to those principles;
 - 2.1.2.3 a system of delegations (i.e. the authorisation of officers to approve and undertake a range of functions in the purchasing process); and
 - 2.1.2.4 purchasing processes, with appropriate procedures covering minor, simple purchases to high value, more complex acquisitions.

- 2.2 Purchasing and contract management activities:
- 2.2.1 support the council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate social responsibility.
 - 2.2.2 span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract.
 - 2.2.3 achieve value for money and quality in the acquisition of goods, services and works by the council.
 - 2.2.4 can demonstrate that public money has been well spent.
 - 2.2.5 are conducted, and are seen to be conducted, in an impartial, fair and ethical manner.
 - 2.2.6 seek continual improvement including the embrace of innovative and technological initiatives such as electronic tendering processes to reduce activity cost; and generate and support business in the local community.

3. APPLICABILITY

- 3.1 This Protocol applies to all staff of Wollondilly Shire Council.
- 3.2 Contractors acting on behalf of Wollondilly Shire Council are also required to ensure their actions are in accordance with this protocol.

4. GUIDELINES

4.1 Protocol Statement

Wollondilly Shire Council is committed to obtaining the best possible value for the Shire.

4.2 Principles

All Council staff involved in purchasing activities shall follow the principles:

Value for money - decisions related to expenditure of Council monies shall be based on the commercial, technical, financial and timing aspects of a supplier's offer.

Professional integrity and probity - council purchasing activities are subject to considerable scrutiny from ratepayers, suppliers and various government agencies. Staff shall:

- 4.2.1 avoid any actual or perceived conflict of interest;
- 4.2.2 not disclose information obtained during purchasing activities that is of a Commercial in Confidence nature;
- 4.2.3 not exhibit any bias to any supplier;

4.2.4 not behave in any manner that contravenes Council's code of conduct.

Management of risk - all staff involved in purchasing shall:

4.2.5 enter into agreements under the terms and conditions of council's standard purchase order;

4.2.6 ensure that when a purchase requires a more specific contract, that the contract document is approved by a Council officer with appropriate delegation;

4.2.7 treat all extensions and renewals of existing purchasing arrangements (including tender options to extend a contract) with the same considerations, actions and decision making processes as required for all purchasing decisions;

4.2.8 ensure that the provisions of the Work Health and Safety Act and council's purchasing guidelines are implemented in all activities involving the purchase of goods and/or services for use by council staff and that operational staff are appropriately consulted prior to making equipment purchases;

4.2.9 council officers shall be aware that when engaging a Contractor to provide services to the community they have a duty to ensure so far as is reasonably practicable in all of the circumstances that no one suffers a risk to their health and safety from the carrying out of work or the provision of the facilities by the Contractor. Council officers shall monitor and regulate the conduct of the Contractor.

Accountability - All staff with purchasing duties shall:

4.2.10 act in accordance with purchasing policies and associated guidelines;

4.2.11 make transparency an inherent characteristic of all procedures, plans, actions and decisions relating to purchasing.

4.3 **Ethics in Procurement**

Council suppliers and their products, personnel and services are a natural extension of Council's own resources. It is the responsibility of all employees to work to maintain Council's standing in the community, to develop and maintain good relations between Council and its suppliers, and to keep in mind that personal contacts form much of the basis for the supplier's opinion of Council.

Note: This protocol is specifically directed to purchasing activities. Employees should also have regard to the current Council Code of Conduct.

Council Officers will:

4.3.1 avoid the intent and perception of unethical practice in relationships, actions and communications with suppliers;

4.3.2 diligently follow lawful instructions, using reasonable care and only authority granted by delegation;

- 4.3.3 refrain from any private business or professional activity that would create a conflict between personal interests and the interests of Council;
- 4.3.4 refrain from accepting money, loans, credits or prejudicial discounts, and the acceptance of gifts, entertainment, favours or services from present or potential suppliers that might influence, or appear to influence purchasing decisions;
- 4.3.5 handle information of a confidential or proprietary nature to Council and/or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations;
- 4.3.6 promote positive supplier relationships through courtesy and impartiality in all stages of purchasing;
- 4.3.7 understand and adhere to laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.

4.4 GST

All dollar values mentioned in this protocol are GST exclusive.

4.5 Purchasing Methods

4.5.1 Petty Cash

Petty cash is to be used to reimburse employees where they have paid for an expense on Council's behalf because it was not possible for the cost to be charged to Council directly. When practicable, every attempt should be made by the employee to avoid paying for the cost personally and to have the expense charged to Council via way of an invoice or through the use of a Council purchase card. Claims shall be made using a Petty Cash Voucher, the attached invoice/receipt and authorised by an officer with the appropriate delegated authority. Any claim(s) made by an individual that exceed \$100 will be reimbursed in the next available payment run via way of a cheque or EFT if the employee's bank details are provided.

4.5.2 Purchase Cards

Purchase cards help reduce the administrative costs and processing time associated with the purchase of goods and/or services of a relatively low value and, in most instances, high occurrence. Council purchase cards are to be made available to Executive and to employees that through the use of a purchase card can potentially save Council a significant amount of administration costs and processing time.

4.5.3 Preferred Suppliers

Preferred supplier arrangements allow individual purchases to be made without calling for tenders or quotations. Considerable benefit is obtained through standardisation and aggregation of purchasing activities for goods and services that are often used throughout various areas of Council.

Preferred supplier arrangements help to maximise purchasing leverage by consolidating volumes, which typically results in lower prices or a lower total cost to Council. Such arrangements also provide assurance that all items are acquired in accordance with Council's Purchasing Protocol requirements.

Council officers shall first check if there are preferred supplier arrangements in place for the required goods or services before obtaining quotations. The Purchasing Officer will maintain all preferred supplier catalogues.

When selecting from a list of preferred suppliers, Council Officers shall document their reasons for using a particular supplier. If after considering all suppliers included in the preferred suppliers list, a decision is made to seek further quotes, the reasons for seeking further quotes and the process undertaken shall be clearly documented.

All purchases made under a preferred supplier arrangement must be in accordance with the quoted prices provided under that arrangement. If the required good or service was not included within the quoted items provided under that arrangement, then the purchase shall be regarded as a "general purchase" and the requirements of section 4.5.4 shall apply.

4.5.4 General Purchases - Thresholds

- (a) **Goods and/or services up to \$2,000**
One verbal quotation required and stated on the Purchase Order or Requisition.
- (b) **Goods and/or services from \$2,001 to \$5,000**
One written quotation required and linked to the Purchase order or Requisition.
- (c) **Goods and/or services from \$5,001 to \$20,000**
Two written quotations required and linked to the Purchase Order or Requisition.
- (d) **Goods and/or services from \$20,001 up to the tendering limit specified in Part 7 of the Local Government (General) Regulation 2005. Note, the specified tendering limit is deemed to be the GST inclusive amount.**
Minimum of three (3) written quotations and linked to the Purchase Order or Requisition.
- (e) **Emergency Purchases**

It is recognised that at times, such as in cases of emergencies, the urgency of action required is such that it is not possible to comply with the requirements of this protocol. In these circumstances, the reasons for non-compliance, including the nature of the urgent action required are to be documented and sent to the relevant member of the Executive for subsequent consideration. Confirmation documentation (purchase order) must be retrospectively raised to ensure supplier payment.

Poor planning shall not constitute an emergency.

4.5.5 Engagement of Consultants

Contracting for a consultancy service is a purchasing activity, no different in principle from the purchase of other goods and services.

The method for inviting quotes for consultancy services is essentially dependent on the estimated cost and time of the proposed consultancy and the range of suitably qualified consultants available for, and given the opportunity to, bid for the project.

Where the cost of the consultancy is known to be less than \$20,000, departments may proceed without obtaining quotations subject to:

- the rates being considered reasonable, and
- the rates being consistent with normal market rates for similar consultancies, and
- the Council officer being satisfied that the final cost will not exceed \$20,000.

Quotes or tenders for all other consultancies are required for the following categories:

- estimated cost from \$20,001 up to the tendering limit specified in Part 7 of the Local Government (General) Regulation 2005 - minimum of three written quotes
- estimated cost above the tendering limit specified in Part 7 of the Local Government (General) Regulation 2005 - public advertising for tenders.

In situations where, despite reasonable efforts to obtain three quotes/tenders, less than three are received action may be taken to engage a consultant provided that full details of the action is documented.

There may be times when a consultant will be required to perform work for Council that is an extension of previous work undertaken or a closely related task where it is clearly advantageous to engage the same consultant that was used for the original task, thus removing the need for certain tasks to be carried out again. In such circumstances, it is deemed appropriate to not seek alternate quotes providing the reason is documented and approval to not seek quotes is given by the General Manager or relevant Deputy General Manager.

Occasionally the Land and Environment Court of New South Wales will appoint a joint expert witness to legal proceedings (e.g. an appeal against the refusal of a development application). In such cases the court acts in Council's role and appoints a consultant, having regard to the preferences of the parties to the appeal. Usually such appointment is made in line with the goals of this protocol of obtaining the best value for money as engagement of a consultant on this basis lowers the cost of the legal proceedings which would otherwise occur by each party paying for its own expert. The decision whether or not to agree to a joint expert will be made by the Manager Planning having regard to legal advice and the opinion of the Council officer co-ordinating the appeal. The engagement of a joint expert (consultant) in these circumstances may occur without regard to any other provisions of this protocol.

4.6 State Government Contracts and Local Government Purchasing

In situations where it is both appropriate and cost effective, State Government Contracts may be used for items not covered by existing Council Contracts. In many instances Contracts put in place by NSW Supply are made up of panels of suppliers and it is therefore a requirement to seek competitive prices from the contracted suppliers.

Use of these contracts can negate the need to Tender for Goods and Services in accordance with S55 Local Government Act 1993.

4.7 Tenders

Public tenders are required for the purchase of goods and/or services above the tendering limit specified in Part 7 of the Local Government (General) Regulation 2005.

Council's *Guidelines for Tendering Protocol* shall be complied with for all Tenders.

4.8 Purchase Orders

A Purchase Order is Council's official document used to purchase goods or services from an external supplier. A Purchase Order documents the contractual arrangement between Council and the supplier. The purchase order also serves to record the commitment in the financial system and to facilitate payment.

The Department of Local Government requires that a purchase order be raised prior to engaging a supplier to provide any goods or services, except in the following instances:

- Petty cash transactions
- Purchase Card transactions
- Where contracts are recurring and for which an order had previously been made or issued (e.g.: payment of utility services such as telephone, electricity, water, and some rental contracts).

Payments such as refunds, reimbursements, donations, wages, etc. are not considered to be the purchase of a good or service and therefore do not require a purchase order to be raised.

Splitting Orders to overcome limitations due to an assigned delegation, or to avoid the requirement for obtaining quotations, is not permitted.

4.9 Quotations

A quotation is an external supplier's bid or offer to provide goods or services. A quotation represents a statement of price, terms of sale and description of goods or services provided by the supplier to Council. Quotations are sought to ensure that Council receives value for money based on fair competition.

Any payments of at least 10% more than the amount quoted must be approved by the supervisor of the person who approved the original purchase order. The onus of seeking such approval is on the person who approved the original purchase order. Retrospective checks will be undertaken to ensure compliance with this requirement.

4.10 Environmental considerations

Purchasing Goals

Employees and contractors shall 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
- Save Water and Energy – purchase products that save energy and/or water
- Minimise Pollution – avoid purchasing products that pollute soils, air or waterways
- Non Toxic – avoid purchasing hazardous chemicals that may be harmful to human health or ecosystems
- Greenhouse Benefits – purchase products that reduce greenhouse gas emissions
- Biodiversity & Habitat Protection – purchase in accordance with biodiversity and conservation objectives
- Value for Money – purchase for best value for money in 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, including materials collected through council's kerbside collection
- 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
- take a leadership role in advancing long term social and environmental sustainability.

All employees should endeavour to purchase only those goods and services with the most beneficial environmental/social impact. Appropriate relevant sustainability criteria are to be considered in all specifications, quotations and tender documents.

Council has a legal obligation to ensure that no person is exposed to risk from the way in which their business is operated, even those with which there is no direct or formal relationship e.g. members of the public. Council officers shall be aware that when engaging a Contractor to provide services to the community they have a duty to ensure so far as is practicable in all of the circumstances that no one suffers a risk to their health and safety from the carrying out of work or the provision of the facilities by the Contractor. Council officers shall monitor and regulate the conduct of the Contractor.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Officers shall not purchase goods or services unless they have delegation from the General Manager and shall not exceed the amount specified in their delegation.
- 5.2 Officers shall not purchase goods or services that exceed budgetary limitations or exhaust the budget allocation for a specific line-item without the approval of their Manager.
- 5.3 Officers delegated with such authority shall ensure that they are aware of all existing Council policies and procedures that may affect the purchasing authorisation. Council's Code of Conduct shall be applied.
- 5.4 Council Officers shall:
 - Acknowledge that Managers are responsible for the financial management of their Sections and the impact of purchasing decisions on the economic performance of their sections.
 - Comply with Council's purchasing procedures and with delegated authorised limits.
 - Acknowledge the responsibility for reviewing the level and usage of delegations of their staff for the purpose of purchasing on behalf of Council lies with the relevant Manager.
 - Acknowledge that it is their responsibility to evaluate, assess and ultimately to make decisions and/or recommendations for quotations/tenders.
 - Treat all extensions and renewals of existing purchasing arrangements (including tender options to extend a contract) with the same considerations, actions and decision making processes as required for all purchasing decisions.
 - Keep appropriate records of purchases and notify all issues of non-compliance to the Purchasing Officer. Reasons behind any purchasing decisions be clearly documented in all cases on a Requisition.
 - Be responsible for completion of the "delivery" within Authority after goods and services have been received.
 - Ensure any invoices received are recorded in Council's Records section.
 - Ensure the procurement process from purchase to payment is carried out in accordance with required processes and procedures.

6. RELATED POLICIES/ PROTOCOLS

- 6.1 Councils Code of Conduct
- 6.2 Guidelines for Tendering
- 6.3 Gifts and Benefits
- 6.4 Corruption Prevention and Fraud Control
- 6.5 Complaint Handling

7. RELATED PROCEDURES

- 7.1 Purchasing Procedure
- 7.2 Purchase Card Procedure
- 7.3 Council's Delegation Register

8. RELATED LEGISLATION

- 8.1 Section 55 of the Local Government Act 1993
- 8.2 Clauses 163-179, 209 and 211 of the Local Government (General) Regulation 2005
- 8.3 Building and Construction Security of Payment Act 1999

9. ATTACHMENTS

- 9.1 Nil

10. RESOURCES

- 10.1 Department of Local Government
- 10.2 Local Government Purchasing
- 10.3 ICAC Safeguarding Public Money: The Importance of controlling Invoice Payments
- 10.4 NSW Government Procurement Board Procurement Policy Framework for NSW Government Agencies

11. IMPLEMENTATION STATEMENT

- 11.1 To ensure this protocol is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, staff and council representatives and will involve:
- 11.1.1 Review existing systems and procedures.
 - 11.1.2 Develop procedure documents, including a Purchasing Toolkit.
 - 11.1.3 Conduct training sessions to educate staff in relation to the requirements of this Purchasing Protocol and the related Purchasing Procedures.
 - 11.1.4 Monitor compliance with the Purchasing Protocol and report any non-compliance to Council's Executive Management Committee.
 - 11.1.5 Periodically review the effectiveness of the Protocol.

12. PROTOCOL HISTORY

12.1 Date First Endorsed	17 August 2015 – Res No. 145/2015
12.2 Most Recent Endorsement	20 January 2016
12.3 Next Review Date	January 2019
12.4 Responsible Officer	Manager Finance
12.5 Responsible Department	Finance



Luke Johnson
GENERAL MANAGER