

ORD13

Attachment 1



PURCHASING AND PROCUREMENT POLICY

P3.0161.56

PURCHASING AND PROCUREMENT POLICY

DIVISION: Customer and Corporate Strategy

BRANCH: Finance and Property Services

CATEGORY: 2

PART 1 - INTRODUCTION

1. BACKGROUND

- 1.1 This Policy refers to Council's procurement of all goods and services in pursuing its commitment to efficiently deliver services to which meet the needs of our community and maximise economic, social and environmental outcomes.

2. OBJECTIVE

- 2.1 The objective of this policy is to set out the principles and framework for Council's purchasing and procurement activities and to ensure that Council is at all times compliant with the *Local Government Act 1993 (The Act)*, *Local Government (General) Regulations 2005* 2021 (The Regulation), the NSW Modern Slavery Act 2018, Tendering Guidelines for NSW Local Government and Council's Code of Conduct in relation to the procurement of goods and services.

- 2.2 Through the application of this Policy, Council is committed to the following:

- setting out Council's procurement governance framework;
- obtaining value for money for the Community which includes consideration of upfront costs as well as whole of life costs;
- transparency and accountability;
- making environmentally sustainable decisions;
- advancing environmental and social sustainability and achieving positive sustainability outcomes;
- eliminating any conflicts of interest;
- monitoring and evaluating performance;
- providing policy and guidance on purchasing and procurement activities to ensure consistency;
- setting out Council's procurement governance framework;

Commented [RM1]: Inclusion of new policy position on sustainable procurement

Commented [RM2]: Statement has been moved to the top.

3. SCOPE

- 3.1 This Policy applies to all purchasing, procurement, tendering and contracting activities undertaken by Camden Council, other than statutory payments or payments for membership of regional or state organisations and is binding on Council officers (i.e. staff, contractors, consultants, Committee members, volunteers etc) who are involved in any aspect of procurement on behalf of Council.

Commented [RM3]: This statement has been replaced with new policy section 3.2 to simplify this paragraph.

- 3.4.3.2 There are exemptions to tendering requirements provided for under Section 55 of the Act (for example, statutory payments). Further guidance in relation to these exemptions is provided in Council's *Procurement Procedures and Guidelines* documentation.

Purchasing and Procurement Policy
Adopted by Council: 23/06/2020 TBC

Next Review Date: 30/06/2024 TBC
TRIM #: 17/305833

Page 2 of 10

4. DELEGATED AUTHORITY

4.1 In order to purchase goods and services on behalf of Council, ~~a~~ delegated authority is required from the General Manager. Numerous employees of Council are charged with financial delegations for the *Purchasing and Procurement of Goods, Works and Services*. Employees may only procure goods and/or services applicable to their delegated authority.

4.2 Financial delegations define the financial limitations within which specified staff may approve a purchase, quotation and contractual processes. Employees may only procure goods and/or services in accordance with these delegations.

4.3 ~~The General Manager has delegated authority to accept Tenders up to a value of \$2 million (Including GST), noting the restrictions placed on this delegation under Section 377(1i) of the Local Government Act 1993.~~

4.24.4 ~~The General Manager has delegated authority to reject all Tenders in circumstances where no submitted tender meets the specifications set out by Council in the tender documents or where tender prices exceed approved budget estimates. The decision to decline all tenders and to enter into direct negotiations in relation to the subject matter of the tender, must still be made by a formal resolution of Council to ensure transparency and accountability.~~

4.34.5 Financial delegations are set out in ~~the~~ Council's Schedule of Sub Delegations Delegation Register which is available on ~~the intranet~~ Council's website.

Commented [RM4]: Inclusion of this Policy position will be via a specific resolution of Council.

Commented [RM5]: Inclusion of this Policy position will be via a specific resolution of Council.

PART 2 - POLICY STATEMENT

5. PURCHASING PROCEDURES

5.1 ~~Prescriptive~~Detailed purchasing procedures are ~~located~~ contained in Council's *Procurement Procedures and Guidelines* documentation.

5.2 The procedures outline Council's requirements when procuring goods and/or services on behalf of Council. Different requirements apply, depending on the total value of the supply.

5.3 All goods and/or services procured on behalf of Council must be procured following these procedures.

6. TENDERING PROCEDURES

6.1 Tenders are mandatory for the majority of purchases where the total anticipated expenditure is greater than \$250,000 (GST inclusive) ~~or above over more than one accounting period. This expenditure threshold could be for a single purchase or contract, or services provided over a number of years.~~ Council may also tender for purchases below this limit.

Commented [RM6]: Provide a better explanation of how services over a number of years could exceed expenditure threshold.

6.2 Detailed tendering procedures are contained in Council's *Procurement Procedures and Guidelines* documentation.

~~It is noted that the process for public tendering may be waived when dealing with prescribed NSWBuy Government Contracts, Local Government Procurement (LGP), Disability Employment Organisations or Procurement Australia Contracts.~~

~~Advice on this may be sought from Council's Purchasing and Procurement Coordinator.~~

- 6.3 In accordance with Section 55 of the Act, Council may elect to utilise prescribed entities when procuring good and services which exceed the tender threshold. These include NSWBuy, Local Government Procurement, Procurement Australia or an approved disability employment organisation. Further guidance in relation to these prescribed entities is provided in Council's *Procurement Procedures and Guidelines* documentation.

Commented [RM7]: Recommend this clause be re-written as below.

7. **PROCUREMENT ~~PROTOCOLS~~ GOVERNANCE**

7.1 **Ethics and Probity**

All Council Officers must comply with the standards of integrity, probity, professional conduct and ethical behaviour established by Council's *Code of Conduct*, Council's Statement of Business Ethics and Guidelines issued by ICAC.

Council officials must disclose any potential or actual conflict of interest (whether pecuniary or non-pecuniary) in order to protect the public interest and prevent breaches of public trust.

Council has adopted a Statement of Business Ethics which sets out the standards of behaviour that Council expects from its private/public partners.

Probity auditors may be commissioned where deemed appropriate by Council's General Manager (or their delegate), in circumstances where additional professional knowledge, experience or independent recommendation is required.

7.2 **Fraud and Corruption Principles**

Council has an adopted Fraud and Corruption Control Policy. The principal elements of Council's Fraud and Corruption Prevention the policy are:

- Preventing fraud at its origin, in particular, implementing effective control structures and procedures that aim to eliminate the prospect of fraud and corruption occurring;
- Making all staff, Councillors, contractors, consultants to Council and volunteers aware of their obligation to act ethically and to follow Council's Code of Conduct at all times;
- Making all contractors, consultants and those dealing with Council aware of the ethical standards that Council applies and of the ethical standards of others in their dealings with Council;
- Committing to a policy of detection, investigation and prosecution of individual cases of fraud and corruption; and
- Respecting the civil rights of individuals employees and members of the public and committing to natural justice.

Commented [RM8]: Minor adjustments to align with updates included in the Fraud and Corruption Control Policy.

Council has a Fraud and Corruption Prevention Control Plan that underpins this policy and details responsibilities of positions within Council and the community. It also outlines steps involved in identifying, investigating, reporting and taking action around fraud and corruption.

The Fraud and Corruption ~~Prevention Control~~ Plan and Council's Code of Conduct also outline the policies and procedures ~~being~~ implemented by Council to ensure that any allegations and subsequent investigations into fraud are handled confidentially and in accordance with applicable legislation.

~~7.3 Value for Money~~

~~Council resources are to be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.~~

~~7.4.3 Record Keeping~~

All substantive communications with potential suppliers in respect of procurement and purchasing should be in writing and/or formal minuted meetings. Records for all procurement activities must be kept and recorded in Council's ~~records~~electronic document management system.

~~7.5.4 Lobbying~~

Lobbying of Councillors and staff by tenderers or their agents is not permitted and shall result in their disqualification from the quotation or tender process on that occasion. For the purposes of this clause "lobbying" shall include seeking to influence, seeking to obtain support or assistance, urging or persuading.

~~7.6.5 Gifts and Benefits~~

Council officers must never seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence their decision making.

In some circumstances token or nominal gifts may be accepted but only in situations that do not create a sense of obligation on the staff or Councillors actions. Where you cannot reasonably refuse or return a gift or benefit of more than nominal value this must be disclosed to your supervisor and then ensure this is recorded in the Gifts ~~and Benefits~~ Register through Governance.

Council's Gifts and Benefits Procedure should be followed at all times. Under no circumstances should a gift of cash, or cash – like gift, be accepted.

8. VALUE FOR MONEY

8.1 Council resources are to be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

8.2 Value for Money is considered to be a combination of product and/or service quality and the whole of life cost which is the most advantageous to Council. Value for money does not necessarily mean the lowest value or price.

8.3 In order to promote value for money outcomes, Council will include the following in its procurement assessment:

Commented [RM9]: Replace this with a new section which can be found at section 8.

Commented [RM10]: Propose new Policy Position for Value for Money to strengthen the importance of this policy position within the Policy. Also provides detail on how value for money is achieved.

- ~~Cost-related factors including whole-of-life costs and other transaction costs associated with the purchase of goods and/or services;~~
- ~~non-cost factors such as fitness for purpose, innovation, quality, risk, service, support, work health and safety (WHS), community, environment and sustainability requirements;~~
- ~~Contribution to the advancement of Council priorities, especially those set out in Council's current Community Strategic Plan and Delivery Program.~~

9. ~~STRENGTHENING LOCAL CAPACITY PROGRAM~~ ~~Buy Local Preference~~

Objectives

- 9.1 Council's approach to procurement is to support local ~~businesses and~~ suppliers and ~~to support economic business activity within the Camden Local Government Area (LGA), where it is efficient to do so, while achieving the Council's overall 'value-for-money' objectives, which is also an expectation from our community.~~
- 9.2 To ~~assist support~~ local industry and local economic development, Council staff shall ~~apply the following initiatives at all times: (where reasonably practicable and appropriate in the circumstances):~~
- a) encourage a 'buy local' culture ~~within Council;~~
 - b) encourage local suppliers to participate in Council business by registering in Vendor Panel and other means considered appropriate;
 - c) utilise Vendor Panel Local Supplier Marketplace as a means to access local suppliers;
 - d) ensure that procurement policies and procedures do not disadvantage local suppliers;
 - e) encourage use of local suppliers by contractors, whenever goods or services are being sourced from outside the Camden LGA;
 - ~~f) ensure that category spend will not exceed the tender threshold over more than one accounting period or contract term;~~
 - ~~g) ensure that there is no current prescribed contract or current preferred supplier agreement in place for the goods/services required;~~
 - ~~h) ensure transparency in Council's procurement practices.~~

~~7.8 Tendering and Quotation Local Preference~~

Objective

- 9.3 ~~In addition to the initiatives outlined in section 9.2, Council will also apply a local capacity factor preference to support local business and encourage economic business activity for the benefit of the local economy. The local capacity factor will apply to quotations and tenders over \$100,000 (incl. GST).~~

Scope

~~The local preference applies to staff and contractors when assessing tenders and quotations over \$100,000 (inc GST).~~

Definition

- 9.4 ~~To be eligible to obtain the local capacity factor, suppliers and/or contractors will be required to have Suppliers with~~ a principal place of business in the Camden

Commented [RM11]: Propose new policy position for Local Capacity Program (former Buy Local Preference) to strengthen the importance of this position within the Policy

LGA or part of their business address (not a PO box) that is located within the Camden- ~~LGA~~ Local Government area.

- 9.5 The assessment criteria ~~will~~ would be a point (or percentage) an evaluation system as follows:

- Award ~~5 points (or 5%)~~ to suppliers located physically within Camden LGA;
- Award between 1% to 4% to suppliers who engage sub-contractor firms or material supply firms located physically within Camden LGA;
- Award ~~0 points (or 0%)~~ to suppliers located outside Camden LGA- who do not use subcontractors and/or material supply firms within the Camden LGA.

The remaining financial and non-financial tender assessment criteria is scored out of 95 points (95%). ~~Within the remaining 95 points (95%) a weighting can be allocated as part of the tender evaluation plan where there is a potential contribution to the Camden LGA (e.g. local sub-contracting).~~

- 9.6 Local suppliers who qualify under Council's On-Time Payment Policy will also receive payment within 20 days as part of the small business friendly councils initiative.

10. SUSTAINABLE PURCHASING

~~40.4 Along with quality, cost and social impacts, Council staff and its representatives must will~~ consider the impact that their purchases have on the environment across the entire life of a product or service. Value for money in procurement is enhanced by promoting the efficient, effective and ethical use of resources.

~~40.2~~ 10.1 Consideration will be given to areas such as:

- Purchasing quantity – Staff are encouraged to only purchase products and services that are needed and only the required quality to reduce unnecessary spending and waste. Staff should also consider repairing, reusing and hiring as an alternative to purchasing;
- Waste – All purchases should consider the waste hierarchy of avoidance (as most preferable) to resource recovery to disposal (as least preferable). This includes consideration across all stages of the product life cycle from inception to end-of-life management. This includes packaging, disposal, ability to be easily recycled, repurpose and product stewardship programs;
- Use of recycled products – Staff should seek products that contain high levels of recycled content as this has a higher sustainability value and requires lower levels of virgin materials;
- Efficient use of resources – Purchase products and services that use lower amounts of energy, water and other resources;
- Pollution – Products should not contain hazardous or toxic substances and/or materials which may negatively impact human health, air, soil or water quality;
- Greenhouse gas emissions – Higher value should be placed on products and services that reduce greenhouse gas emissions;
- Biodiversity and habitat – Products and services that support environmental protection and conservation.
- ~~Minimising greenhouse gas emissions, waste, habitat destruction, soil degradation and toxicity;~~
- ~~Maximising water efficiency.~~

Commented [RM12]: This change in policy position recognises that larger companies can still promote local procurement through the use of local trades and suppliers through contract delivery. Returnable schedules have been developed to allow tender respondents to provide this information

Commented [RM13]: This proposed change includes greater clarity around what should be considered as part of the procurement process to ensure sustainability is promoted through all aspects of the procurement cycle

11. MODERN SLAVERY

Commented [RM14]: New section required to meet policy obligations under the Modern Slavery Act Provisions.

11.1 Council must take reasonable steps to ensure that goods and services are not the product of modern slavery within the meaning of the NSW Modern Slavery Act 2018.

11.2 Council staff and its representatives must ensure its operations and supply chains do not cause, involve or contribute to modern slavery. Council must also ensure its suppliers, relevant stakeholders, and others whom we do business with respect and share our commitment to minimising the risk of modern slavery.

11.3 To ensure that Council takes reasonable steps to avoid engaging suppliers who engage in modern slavery practices, the following measures will be taken:

- Identifying where modern slavery risks exist in Council's supply chain and assessing the degree of those risks;
- Engaging with suppliers to identify those which are committed to minimising the risk of modern slavery in their own supply chains and operations;
- Undertaking modern slavery risk assessments as part of the procurement process;
- Providing training to Council staff to ensure they are aware of what modern slavery is, what Council's modern slavery risks are and how to raise any identified or potential concerns.

44-12. WORKPLACE HEALTH AND SAFETY

12.1 All contractors must provide documented evidence of the safety systems they have in place relevant to the risk associated to the work to be performed. Please refer to the Contractor Safety Management Procedure.

44-12.2 All contractors, designers, manufacturers, importers, suppliers, installers and builders of Council must adhere to relevant Work Health and Safety (WHS) Act 2011-legislation. WHS performance will be monitored and reviewed to ensure continued adherence to legislation and relevant Council Policies.

11-2 All contractors, designers, manufacturers, importers, suppliers, installers and builders providing services to Camden Council are required to complete an Accreditation process. Please refer to the Contractor Management Procedures for more detail.

42-13. ADMINISTRATION OF THIS POLICY

42-13.1 General enquiries in regard to this Policy should be directed in the first instance to Council's ~~Purchasing and Procurement Coordinator~~ Finance and Property Services Branch.

42-213.2 Council will deal promptly with any concerns or complaints regarding this Policy. Any issues should be directed in writing to the General Manager.

ORD13

Attachment 1

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**RELEVANT LEGISLATIVE
INSTRUMENTS:**

[Government Information \(Public Access\) Act 2009](#)
[Local Government Act 1993](#)
[Local Government \(General\) Regulations 2021](#)~~2005~~
[Local Government Code of Accounting Practice and Financial Reporting](#)
[Modern Slavery Act 2018 \(NSW\)](#)
[Privacy and Personal Information Protection Act 1998](#)
[State Records Act 1998](#)
[Tendering Guidelines for NSW Local Government](#)
[Waste Avoidance and Resource Recovery Act 2001](#)
[Work Health and Safety Act 2011](#)
[Local Government Code of Accounting Practice and Financial Reporting](#)
[Government Information \(Public Access\) Act 2009](#)
[Waste Avoidance and Resource Recovery Act 2001](#)
[Related Party Transaction Act 2016](#)
[Privacy and Personal Information Protection Act 1998](#)
[State Records Act 1998](#)

**RELATED POLICIES, PLANS
AND
PROCEDURES:**

[Contractor Safety Management Procedure](#)
[Code of Conduct](#)
[Fraud and Corruption Control Policy](#)
[Fraud and Corruption Control Plan](#)
[ICAC Guidelines](#)
[IT Service Provider and Third-Party Supplier Policy](#)
[Procurement Procedures and Guidelines](#)
[Purchase Card Policy](#)
[Purchased Goods Safety Evaluation](#)
[On-time Payment Policy](#)
[Petty Cash Policy](#)
[Schedule of Sub Delegations](#)
[Staff Reimbursement of Council Expenses Procedure](#)
[Record and Information Management Policy](#)
[Record and Information Management Standard](#)
[Tendering Guidelines for NSW Local Government](#)
[Statement of Business Ethics](#)
[Work Health and Safety Policy](#)
[Purchase Card Policy](#)
[Financial Delegations from General Manager](#)
[Purchased Goods Safety Evaluation Sheet](#)
[Contractor Management Procedure 5.0A](#)
[Contractor Management \(PC\) Procedure 5.B](#)
[Work Health and Safety Policy](#)
[ICAC Guidelines](#)
[Statement of Business Ethics](#)
[Fraud and Corruption Prevention Policy](#)
[Fraud and Corruption Prevention Plan](#)
[ICAC Guidelines](#)

Purchasing and Procurement Policy
 Adopted by Council: [23/06/2020 TBC](#)

Next Review Date: [30/06/2024 TBC](#)
 TRIM #: 17/305833

Page 9 of 10

RESPONSIBLE DIRECTOR: Director Customer and Corporate Strategy

APPROVAL: Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	Minor	July 2002	15/167592
2	Council	Old policy (5.32) rescinded and updated policy (P3.0161.1) adopted	26/09/2017	17/305833
3	Council	Minor - addition of fraud and corruption principles	11/06/2019	17/305833
4	Council	Legislative changes	08/10/2019	17/305833
5	Council	Inclusion of Local Preference	23/06/2020	17/305833
<u>6</u>		<u>Inclusion of Modern Slavery Provisions, Changes to the application of Strengthening Local Capacity Program and other administrative changes to Policy</u>		<u>17/305833</u>