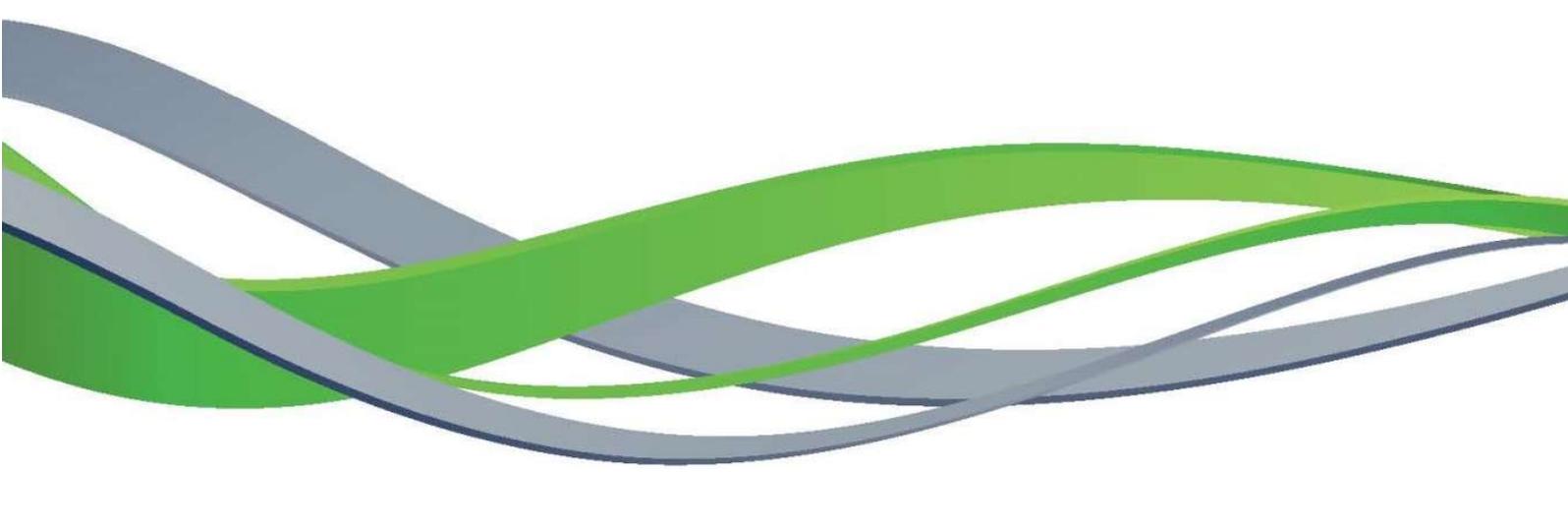


**Policy: Council**

**STRATEGIC PROCUREMENT  
POLICY**



## Policy Statement

Council must act in the best interests of residents, ratepayers and the wider community in conducting its procurement activities.

Blue Mountains City Council is committed to conducting its procurement activities in a manner which is:

- Compliant;
- Efficient;
- Fair, honest, transparent and ethical;
- Cost effective;
- Timely;
- Well controlled; and
- Innovative.

This policy incorporates continuous improvement in procurement and ensures that the criteria in the evaluation process is formalised to confirm that preference is given for economic, social and environmental considerations in Council procurement activities.

<b>Policy Ref. No:</b>	48	<b>PCT Endorsement Date:</b>	20 May 2019
<b>TRIM Record No:</b>	19/101131	<b>ELT Meeting Date:</b>	05 June 2019
<b>Distribution:</b>	Public	<b>Public Exhibition Details:</b>	N/A
<b>Status:</b>	Adopted	<b>Council Meeting Date:</b>	25 June 2019
<b>Scope:</b>	Councillors, staff and contractors of Council.	<b>Council Minute No:</b>	188
<b>Lifespan:</b>	2 years	<b>Responsible Directorate/Group:</b>	Strategy and Corporate Services
<b>Next review:</b>	July 2021	<b>Contact Position:</b>	Director Strategy & Corporate Services

## Version History

Version	Adoption Date	Reason for Change
2012	13 March 2012 (Minute No. 93)	Update to prior Purchasing Policy.
2018	26 June 2018 (Minute No. 379)	Update of prior Sustainable Procurement Policy.
2019	TBC	Update of 2018 Strategic Procurement Policy.

## Definitions

Term	Definition
LG Act	<i>Local Government Act 1993 (NSW)</i>
Aggregator	<i>Aggregators are named so because they aggregate a broad range of approved business/service providers which can be easily accessed through “panels”. Local Government Procurement (LGP), NSW Government ProcurePoint and Procurement Australia (PA) are examples of Aggregators. These organisations are also Prescribed Entities. Note: an Aggregator may not be a Prescribed persons (or Entity) under the Local Government Act S163.</i>
Best Value	<i>Best value in Procurement is about selecting the supply of goods, services and works, taking into account both cost and non-cost factors:</i>
Commercial in Confidence	<i>Information that, if released, may prejudice the business dealings of a party e.g. prices, discounts, rebates, profits, methodologies and process information. Under contract definitions it is usually information not publically available.</i>
Consultant	<i>A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations of high-level specialist or professional advice to assist decision making by management. It is generally the advisory nature of the work that differentiates a consultant from other contractors. The definition does not apply to casual or temporary staff employed or engaged by council. Consultants are engaged to provide services under contract (agreement) whereas employees work under Council’s direction and control.</i>
Contractor	<i>Contractors are engaged under a “contract for service” agreement and are paid via invoice. Council may engage contractors on a temporary or short-term basis. A Contractor evaluates the client's needs and actually performs the work. The individual hiring the contractor defines the desired results and the schedule. The Contractor may supply labour only or labour and supplies. The Contractor generally retains control over the work to be done including the means and methods used to do the job, the scheduling of the underlying work, who performs the work and determines how the work will get done within the standards and time requirements set. A Contractor will generally use his or her own tools and work equipment and may employ others to do the work on their behalf. Contractors are not employees.</i>
Environmental Sustainability	<i>The entire life cycle of goods and services are to be considered, taking environmental risk and benefits into account whilst avoiding unnecessary consumption.</i>
Social Procurement	<i>Assisting local businesses in working with Council and ensuring that Council’s processes are transparent and do not disadvantage local business.</i>
Expression of Interest (EOI)	<i>An invitation for persons to submit an EOI for the provision of the Goods and/or Services generally set out in the overview of requirements contained in the document. This invitation is not an offer or a contract.</i>

Goods	<i>Tangible material such as stationery and plant.</i>
OPRS	<i>Council's online purchasing and requisitioning system.</i>
Prescribed Entity Aggregator	<i>Local Government Procurement (LGP), NSW Government ProcurePoint and Procurement Australia (PA) are examples of persons prescribed under S55 (3) of the Local Government Act / S163 (1A) (1B) of the Local Government Regulation, to which exceptions to the Tender requirements of S55 of the LGA apply. These Prescribed Entities are also examples of Aggregators.</i>
Probity	<i>Ethical behaviour that upholds the values of honesty and integrity and ensures impartiality, accountability and transparency. Within Local Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.</i>
Procurement	<i>The overarching business function of acquiring goods and services; the end to end process of identification, sourcing, market engagement, evaluation, contract award, contract management and review.</i>
Purchasing	<i>The activity of acquiring goods or services to accomplish the goals of the business.</i>
the Regulations	<i>Local Government (General) Regulation 2005 (NSW).</i>
Responsible Officer	<i>A Council officer conducting procurement activities. This includes Councillors with respect to procurement decisions referred to the elected Council.</i>
RFQ / RFT	<i>Request for quotation / Tender. An Invitation to suppliers to provide a proposal response outlining how and at what cost the supplier would meet the requirements outlined in the RFQ / RFT. The issuing of a RFQ / RFT does not of itself form an offer or contract. However upon suppliers return of submission a Process Contract, detailing how the RFQ/RFT will be run and the successful contractor selected etc., is formed between the parties. A contract for the supply of goods and services is usually formed upon Council's acceptance (and communication of that acceptance.)</i>
Services	<i>The business activities conducted by third parties for and on behalf of the Council.</i>
Strategic Procurement	<i>Long-range plans for ensuring timely supply of goods and/or services critical to an organisation's ability to meet its core business objectives.</i>
Tender Process	<i>The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.</i>
WH&S	<i>Workplace Health and safety</i>

## Related Documents

This document should be read in conjunction with the following documents:

- Blue Mountains City Council, *Procurement Manual*
- Blue Mountains City Council, *Tendering Policy*
- Blue Mountains City Council, *Procedure for the engagement of Consultants*
- Blue Mountains City Council, *Code of Conduct*
- Blue Mountains City Council, *Conflicts of Interest and Declarations Management Policy*.
- Blue Mountains City Council, *Public Interest Disclosures Internal Reporting Policy*
- Blue Mountains City Council, *Statement of Business Ethics*
- Blue Mountains City Council, *Gifts and Benefits Policy*
- Blue Mountains City Council, *Records Management Policy*
- Blue Mountains City Council, *Cash Handling Policy and Cash Handling and Petty Cash Protocol*
- NSW Department of Premier and Cabinet – Division of Local Government – *Tendering Guidelines for NSW Local Government*

## Related Legislation

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2005* (NSW)
- *State Records Act 1998* (NSW)
- *Trade Practices Act 1974* (Cth)
- *Work Health & Safety Act 2011* (NSW)

## OBJECTIVES

Council's procurement, contracting, purchasing and contract management activities endeavour to:

- Position the Council to acquire the correct goods and services, in the correct quantities, to the required specification, ideally when (and only when) required;
- Assist the Council to be better prepared for fluctuations in the price and availability of key goods and services, reducing the risk of commodity and/or service in-security;
- To support the establishment of a diverse supply chain, with particular focus on entities that deliver or have the potential to deliver social, economic and /or environmental benefit locally and/or regionally;
- Assist Council to be better positioned to take direct and indirect costs out of its activities through improved data analytics and by having visibility of Council's entire procurement landscape;
- Transform the procurement process from being exclusively concerned with the acquisition of goods and services into one which plays a key role in asset 'whole of life cycle' value management;
- Provide a robust and transparent audit trail which ensures that procurement projects are, appropriately planned and approved, delivered on time, within cost constraints and that the needs of end users are fully met;
- Ensure that risk is identified, assessed and managed at all stages of the procurement process; and
- Increase the probability of obtaining the right outcome when purchasing goods and services.

In addition, Council is committed to developing a strategic approach to procurement that facilitates:

- Standardisation of goods and services across the organisation, providing the opportunity to leverage off improved scale economies;
- More precise matching of demand to quality, meaning that in many cases the 'specification' of goods and services can be reduced;
- Taking delivery of goods and services when they are required, reducing inventory and freeing up capital for higher yield investment;
- Providing the council with the means to be more innovative while still complying with important compliance obligations; and
- The use of market analysis to position the Council to deal more effectively with price volatility and the risk of long term supply insecurity.

## SCOPE

This policy applies to all types of procurement conducted on behalf of the Council, including but not limited to the acquisition of goods and services, provision of materials and the engagement of contractors and consultants.

The recruitment of staff is exempt from the policy, which is conducted in accordance with the LG Act, Local Government Award, and Council's *Recruitment & Employment Policy*; however the engagement of consultants or contractors must be in accordance with this Policy.

## ACCOUNTABILITY

As Council is a publicly funded authority its procurement processes must be performed in a manner able to withstand the closest possible audit scrutiny.

At all times, Responsible Officers will:

- Be able to account for all decisions and provide feedback on them;
- Be compliant with applicable legislation, regulation, codes, policies and processes;
- Treat potential and existing suppliers with equality and fairness;
- Maintain confidentiality of commercial-in-confidence information such as contract prices and other sensitive information;
- Present the highest standards of professionalism and probity and deal with suppliers in an honest and impartial manner that does not allow conflicts of interest; and
- Not seek or receive personal gain.

These requirements are explained / expanded in further detail below

### Transparency and Record Keeping

Council has an obligation to explain and account for the way decisions have been reached and duties performed. It is important to ensure that during the procurement process documentation is retained to explain the decisions and actions made by Council.

Council must ensure that the process for all procurement is open, clear, fully documented in accordance with Council's *Records Management Policy* and able to withstand audit scrutiny.

### Compliance

Council's procurement activities are subject to compliance with one or more of the following:

- Legislation, including but not limited to the LG Act (particularly sections 55 and 377), the Regulations (particularly Part 7) and the Trade Practices Act;
- Relevant Council policies, including but not limited to the Code of Conduct and Tendering Policy;
- Relevant Council procedures, including but not limited to the Procurement Manual;

- the Tendering Guidelines for NSW Local Government; and
- the NSW Code of Practice for Procurement.

The responsibility for procurement activities rests with the Responsible Officer conducting the procurement activity. Managers/Supervisors and others with financial delegation are responsible for oversight of these activities and budget management.

### **Equality and Fairness**

The procurement process must ensure that suppliers are treated equally and that there is no bias or favouritism towards one supplier over another. All persons invited to Tender or Quote for Council business must be given equal information. Responsible Officers must not engage in practices that are anti-competitive or engage in collusive practices. Responsible Officers should be vigilant for evidence of Collusion between Suppliers / Tenderers and report suspicious behaviour. For reporting anti-competitive collusion visit: <https://www.icac.nsw.gov.au/reporting/how-and-what-to-report>

### **Confidentiality**

Commercial in-confidence information received by the Council must not be disclosed and is to be stored in a secure location.

Councillors and Council staff are to protect confidentiality, by refusing to release or discuss the following:

- Allocated Council budgets for proposed tenderers under most circumstances. Exceptions must be carefully considered and the reason documented;
- Information disclosed by organisations in tenders, quotation or during tender negotiations;
- All information that is Commercial in-confidence information; and
- Pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

### **Professionalism and Probity**

Responsible Officers shall at all times avoid and appropriately manage any real or perceived conflicts of interest to ensure that their personal interests do not conflict with their Council duties.

All real or perceived conflicts of interest must be declared and appropriately managed in accordance with Council's *Code of Conduct* and *Conflicts of Interest and Declarations Management Policy*.

## **Avoidance of Personal Gain**

Responsible Officers must not, either directly or indirectly solicit or accept gifts or benefits from any member of the public involved with any matter that is connected with the duties of the officer, or in which the Council is interested, including any current or prospective contractor, supplier or tenderer.

All gifts and benefits or offers of gifts and benefits must be disclosed and surrendered in accordance with Council's *Gifts and Benefits Policy*.

## **FRAUD PREVENTION CONTROLS**

Internal controls with respect to fraud prevention in procurement include the following:

- Ensuring that processes require the involvement and responsibility of more than one person transaction end to end;
- Demonstrating transparency and accountability in the procurement process;
- Maintaining a clearly documented audit trail for procurement activities;
- Ensuring appropriate delegations are exercised and documented; and
- Implementing and maintaining systems for appropriate monitoring and performance measurement, including for facilitating audit.

Other controls are set out in Council's *Fraud & Corruption Prevention Policy*.

## **PROCUREMENT PRINCIPLES**

The Council's procurement activities shall be carried out having regard to the following principles.

### **Responsible Financial Management**

The principle of responsible financial management shall be applied to all procurement activities.

Accordingly, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

Responsible Officers must not authorise the expenditure of funds in excess of their financial delegations.

Responsible Officers should avoid disclosing allocated tender budgets to suppliers under most circumstances. Exceptions must be carefully considered and the reason documented. Exceptions may involve Design or Design and Build engagements where disclosure of budget may affect the appropriate scope of the build.

Council funds must 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.

## Value for Money

Obtaining value for money in delivering the best outcomes for our community is the overarching requirement for procurement at Council.

Value for money is not necessarily the lowest price and Council is not obliged to accept the lowest tender price. Rather, value for money includes consideration of many factors including quality, performance history, whole of life costing (including the cost of environmentally responsible disposal at end of life), timely delivery, risk, WH&S requirements, and other factors relevant to both the overall objectives of the LG Act and Council policies.

Achieving best value also requires *challenging* the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, *comparing* service provision options against all those available, *consulting* with key stakeholders and ensuring *competition* in the open market.

Responsible Officers must monitor the receipt of goods or services, to assess ongoing value for money.

Achieving best value for money must be the basis of all procurement decisions within the Council.

## Risk Management

Risk management (second line of defence) is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works. Risk management will be carried out in accordance with the Council's Enterprise Risk Management Policy and Procedures. Responsibility for maintaining the policy and procedures lies with the Risk and Internal Audit unit. (Office of the CEO).

Risk Management also involves ensuring that Council's expected financial and legal position with regards to the procurement is protected. This involves ensuring that appropriate contract terms are in place and executed correctly. Examples of relevant considerations include, indemnities, insurance and WH&S clauses.

Prior to making a decision to purchase Services or Goods that may affect the health, safety and welfare of workers, Responsible Officers must ensure that all prescribed WH&S standards have been met. Responsible Officers should refer to relevant WH&S policies and Standard Operating Procedures ('SOPs').

Consideration and management of the various risks associated with the procurement will assist manage the risk to Council's reputation should any undesirable outcomes occur. By treating and documenting all the identified risks, Council will be placed in the best possible position to manage reputational risk.

## **Assurance**

Periodic internal audits (third line of defence) will be conducted to assess the overall effectiveness of the system of procurement. Internal Audit is the responsibility of the Risk, and Internal Audit unit. (Office of the CEO).

## **Sustainability**

The Council recognises it has an implicit role in furthering sustainable development, through its procurement of goods, and services and works. Council will promote high-quality environmental standards and responsibility and make procurement decisions which aim to reduce resource consumption, biodiversity depletion and environmental impact where possible.

Council aims to achieve this by doing the following wherever reasonably possible to do so:

- Considering the entire life cycle of goods and services;
- Considering the environmental performance of all suppliers and contractors, and encouraging them to conduct all operations in an environmentally sensitive manner;
- Selecting products / services that have minimal effect on the depletion of natural resources and biodiversity;
- Giving a preference to Fairtrade, or equivalent, and ethically sourced and produced goods and services , where all other evaluation aspects are equal;
- Working more effectively with local suppliers to ensure they are encouraged to bid for the Council's business in line with this Policy; and
- Comply with all Australian regulations and legislation and ensuring our suppliers do the same.

## **Social Procurement**

Social procurement generates positive outcomes by building on initiatives already undertaken by the Council in enhancing sustainable and strategic procurement practice, further enabling procurement to effectively contribute towards building stronger communities and meeting the social objectives of the Council.

The Council is committed to Social procurement by:

- Ensuring all procurement practices are sustainable and strategically aligned with the wider Council objectives;
- Achieving greater value for money across the community through the use of effective procurement;
- Ensuring all businesses have the same opportunity to tender for Council contracts;
- Preferencing local suppliers, where all other evaluation aspects are equal;
- Enhancing partnerships with other Councils, suppliers and community stakeholders;

- Building and maintaining a strong community by exploring ways to generate local employment (particularly among disadvantaged residents) and further strengthening the local economy; and
- Purchasing ethical and fair trade goods to support equitable, local, national and international trade.

## PROCUREMENT METHODS & THRESHOLDS

The choice of procurement method is primarily guided by expenditure threshold, but there are other factors which should be considered in the selection of procurement method, such as:

- What has the greatest likelihood of achieving the best value for money;
- What best meets Council's needs;
- What method is appropriate for the level of risk;
- Timeliness;
- Options which avoid creating unnecessary costs for Council and/or tenderers; and
- What safeguards the security and confidentiality of all tenders.

Responsible Officers should also refer to the *Procurement Manual* for requirements of each of the following procurement methods and thresholds. Accountability standards as set out in this Policy apply to all procurement activities, irrespective of expenditure threshold or procurement method.

### Approvals

The approval of procurement activities must not exceed a staff member's approved delegations; that is, staff must have the appropriate delegation from the CEO, whose delegations are from the Council. Certain procurement cannot be delegated to the CEO, with the effect that these activities must be reported to the elected Council for approval:

- Procurement with a value of \$150,000 inclusive of GST or more (due to Council Delegation limits);
- Tenders with a value of \$150,000 inclusive of GST or more; or where LGA and Regulations requirements to tender exist irrespective of value.
- Tenders which are for the provision of services currently provided by members of staff of the Council, regardless of the expenditure threshold. This is because this cannot be delegated to the CEO by the Council (section 377 (1)(i)).

It should be noted that all procurement /purchasing where a purchase order is required **MUST** be authorised by a Supervisor or Manager who needs to assess and ensure that the procurement / purchase is compliant with the Policy.

## **Expenditure Thresholds**

The level of expenditure generally refers to the value, excluding GST, per item or per order total. The applicable level of expenditure is also to be determined with reference to the cumulative amount paid to one organisation, or for the same type of good, service or work during a financial year, or two (2) or more financial years where supply arrangements are ongoing.

There is one exception to the value of Expenditure Thresholds being excluding of GST within Blue Mountains City Council. This is for the Local Government Regulation tender Threshold of \$150 000. This particular threshold is Inclusive of GST. Expenditures of \$150 000 inclusive of GST and above must go to tender and therefore to Council for approval.

Where the Responsible Officer is not sure of the estimated cost of a purchase because the cost is variable, or the estimated cost is close to the upper limit of the expenditure threshold, the procurement planning processes should apply the upper threshold limit requirements.

Order splitting, including purchases via Purchase Card or Petty Cash, to overcome the requirements of this Policy is not permitted.

## **Summary of Procurement Methods and Competition Standards**

### **Stores Requisition**

- The Council Store holds inventory of commonly used items. Items available at Stores are to be purchased from the Stores in all instances, except in an emergency situation as defined in Emergency Procurement section below and also within the Procurement Manual. Standardisation of goods can provide a reduction of inventories and inventory investment; allow increases in purchase leverage and overall supplier performance.
- Persons requisitioning from Stores do not need to obtain quotes prior to requisitioning goods from Stores.
- Responsible Officers conducting procurement activities for the purpose of stocking items for Stores are required to comply with this Policy, including competitive standards and procurement methods set out below.

### **Petty Cash**

- Petty cash may only be used for expenditure **under \$100**;
- Expenditure via petty cash is usually retail and non-competitive and should therefore only be used when other options are unreasonable;
- Petty cash may not be used for items available from Stores.
- Refer to the Cash Handling Policy and *Cash Handling and Petty Cash Protocol* for further details.

### **Purchase Card (including Credit Card)**

- Purchase Cards (including Credit Cards) may only be used for expenditure **under \$1000**, or by express exception as authorised in writing by the relevant Manager for those goods and services which can only be purchased by credit card;
- RFQ competition methods apply depending on the expenditure threshold (see below);
- Expenditure via Purchase Card is usually on a retail basis and competition is limited. It should therefore only be used when other options are unreasonable.
- Refer to the *Purchase Card Procurement Protocol* for further details.

### **Prescribed Entity Aggregator Contracts**

- Council may make use of the following aggregators: ProcurePoint (NSW State Government Contracts), Local Government Procurement (LGP), Procurement Australia. These are defined under the LG Act S55 (3) (g) and Regulations 163 (1) (A) as Prescribed Entities.
- The use of Prescribed Entity Aggregator Contracts can be an alternative to tendering and quoting processes.
- Council has no obligation to use a Prescribed Entity Aggregator contract and is free to make use of other procurement methods where it is more appropriate to do so. Prescribed Entity Aggregator contracts should not be used if better value for money may be achieved through other procurement methods.
- The *Procurement Manual* sets out the process that needs to be complied with where and when Council chooses to utilise Prescribed Entity Aggregator Contracts for the acquisition of services.
- Responsible Officers are not generally required under the LG Act to obtain Quotations for pre-established contracts with Prescribed Entity Aggregators or from certain other Public Authority arrangements. However BMCC Procurement Policy and Procurement Manual require multiple quotations from these organisations.
- The Prescribed Entity Aggregator contract offers maximum pricing which can then be negotiated;
- Procurement is undertaken under the terms and conditions of contracts established by the above Prescribed Entity Aggregators;

- While a Prescribed Entity Aggregator contract may result in an exception to the LG Act requirement to Tender, refer a procurement decision to Council for approval where the procurement has an expenditure threshold of \$150,000 inclusive of GST and above.
- In Procurements of \$150 000 inclusive of GST or greater, a minimum of three (3) quotes from three vendors on a Prescribed Entity panel must be obtained. Where this is not possible, refer to the BMCC Exemption Process in the Procurement Manual.
- The use of Prescribed Entity Aggregator contracts is to streamline procurement activities; however procurement accountability standards and principles apply to every transaction.

### Request for Quotation (RFQ)

- An RFQ may only be used for expenditure under \$150,000 incl GST;
- Responsible Officers must apply minimum competition standards as follows:

*Note: all threshold amounts other than the \$150 000 threshold are Exclusive of GST.*

- **Under \$1,000:** Minimum of one (1) verbal quote, to be recorded in writing by the Responsible Officer.
- **From \$1,000 up to \$10,000;** Minimum of two (2) verbal quotes to be recorded in writing by the Responsible Officer.
- **From \$10,000 up to \$50,000:** Minimum of two (2) written quotes required.
- **From \$50,000 up to \$150,000 (incl GST) :** Minimum of three (3) written quotes required plus an RFQ
- **\$150,000 (incl GST) +:** Tendering process
- **Competition standard exceptions:** Certain goods and services may only be available from a single source of supply, making competitive standards difficult. For example, this may occur with respect to conference fees or with respect to licencing of a unique product or service. If this is the case, every endeavour must be made to identify alternative sources, which must be documented. Any procurement which is conducted outside of competition standards must be authorised by the relevant Director, CEO or Council, depending on the expenditure threshold.

Refer to the **Procurement Manual** for further details on Competition Standards and Exemptions Process.

### Request for Tender (RFT)

Responsible Officers should refer to Council's *Procurement Manual* and the OLG's *Tendering Guidelines for NSW Local Government* for relevant details; however the following policy setting is to provide broad initial guidance to Responsible Officers.

A tender process is required for all expenditure **over \$150,000 (incl GST)** (Except where a Prescribed Entity Aggregator Contract can be used – see previous section).

A tender process may also be preferred for expenditure **under \$150,000 (incl GST)**, to help ensure Council is appropriately testing the market and obtaining competitive pricing.

## Types of Tenders

- **Multi-stage tender (invitation to tender by EOI – Expression of Interest):** This involves an initial open expression of interest stage followed by a selective tender process involving the organisations selected as a consequence of the registration of interest stage. Multi-stage tendering is used in complex procurement to establish that vendors have potential capacity to meet required tender prior to engaging in a full tender, thereby avoiding unnecessary costs for Council and potential vendors.
- **Open tender (Single Stage Tender):** This is undertaken through public advertisements inviting interested persons to submit a tender.
- **Selective tender:** This is undertaken by either advertising an expression of interest and then inviting tenders from suitable respondents, (Multi -Stage Tender) or by inviting tenders from a pre-prepared list of recognised contractors, often referred to as a panel. Selective tender is used where there is a continuing workload in a particular category of work and the workload justifies setting up and maintaining the list.

One outcome of a tender may be the establishment of a panel of pre-approved vendors to be approved by the elected Council. In this case, rates for goods and/or services are set by contract on acceptance of tender. The use of this panel is then conducted on an as-needs basis for the duration of the contract.

The decision to approach the market via tender requires Approval from the appropriate Delegate. Refer to Council's Delegations to identify the appropriate officer. Check for the appropriate delegated authority for acceptance of Tenders.

Responsible Officers involved in a tender process must ensure compliance with relevant legislation, regulation (for example, with respect to advertising requirements). Further details are set out in the **Procurement Manual**.

## Standing Orders (or 'Blanket Orders')

- Standing orders relate to an agreement with a supplier to deliver a good or service until being told to stop.
- Competition standards apply in accordance with expenditure thresholds set out above and arrangements must be reviewed at minimum every two (2) years.
- Examples of common standing orders include Council-wide supply agreements in place for electricity, water, gas, street lighting, telephone and fuel supplies.
- Administration of standing orders must be in accordance with the *Procurement Manual*.

## EMERGENCY PROCUREMENT

Section 55(3) (k) of the LG Act permits the making of a contract in an emergency, without requirement of a tender. Emergency procurement is defined as any situation or event where there is a risk of injury if maintenance/repair is not carried out or where major works cannot be completed due to breakage in an essential piece of equipment. Emergency situations may also arise externally to the Council, such as natural disasters, where Council is requested to supply materials or support services to an emergency service or the community in response to or recovery from such events.

Examples of an emergency where this exemption applies are:

- A state of emergency declared under the *State Emergency and Rescue Management Act 1989 (NSW)*;
- A declaration under s 44 of the *Rural Fires Act 1997* and Council is requested by the incident controller to supply goods or services in support of bushfire operations;
- An incident that requires activation of Council's Crisis Management Plan and/or Business Continuity Plan;
- An incident declared by the CEO where the safety or security of any person or property associated with Council is threatened;
- An external incident to which the CEO(or nominee) has authorised the provision of urgent support; and
- An incident where the CEO deems that a purchase is required in the best interest of public safety.

Normal tender/quotation procedures do not apply to emergency procurement however accountability standards and procurement principles continue to apply.

The following conditions apply to emergency procurement:

- Requests for assistance from external agencies must be made in writing and must be authorised by the incident controller or their delegate;
- Emergency procurement is only an option where Council must act immediately and take all reasonable and necessary action to mitigate any continuing risk associated with the situation. This may only be used in cases of genuine emergency and not to remedy poor planning;
- Authorisation for emergency procurement may only be given by the elected Council or the CEO;
- If the value of the works exceeds \$150,000 (incl GST) the action must be reported at the next Council meeting;
- Emergency procurement applies only to the period of emergency. Remedial work following the emergency should follow normal procurement procedures; and
- Emergency procurement activities must be documented and reported in accordance with the *Procurement Manual*.

## **UNSOLICITED PROPOSALS**

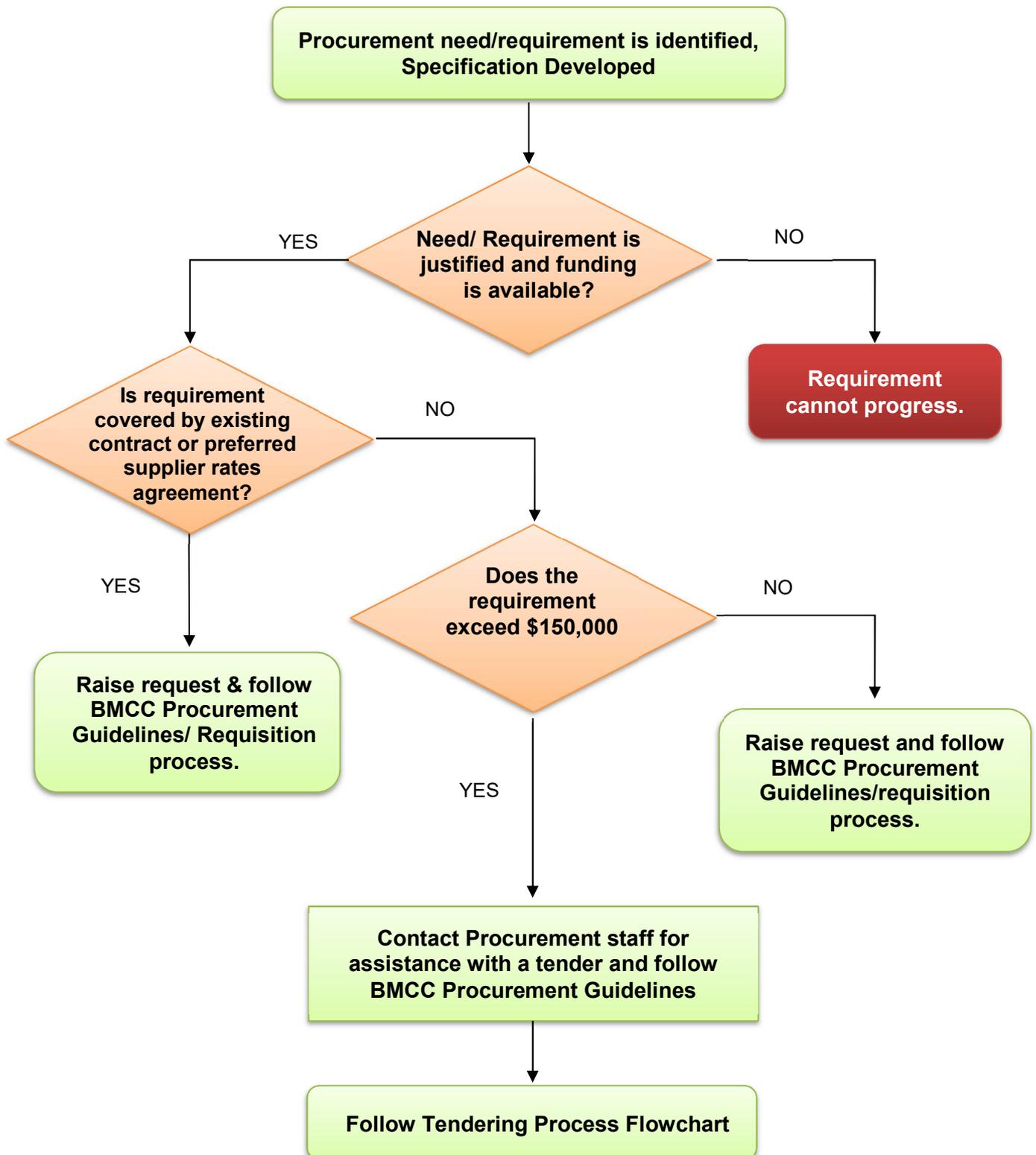
In principle, the Council will refer to the NSW Department of Premier and Cabinet's *Unsolicited Proposals Guide for Submission and Assessment* (August 2017) in the consideration of any unsolicited proposals.

## **ATTACHMENTS**

- Attachment 1 - Process for Procurement Procedures
- Attachment 2 - Procurement Decision Table
- Attachment 3 - Professional Services/Consultants Decision Table

**Attachment 1.**  
**PROCUREMENT PROCEDURES**  
**(Excludes Aggregator Contracts)**

Schematically the Procurement process can be summarised as:



## Attachment 2. Procurement Decision Table

Level of Expenditure ( Excl GST EXCEPT for \$150,000 threshold)	1 Verbal Quotes	2 Verbal Quotes	2 Written Quotes	3 Written Quotes	Purchase Order	Request for Quote	Tendering Process	Sign-off Authority
Less than \$1,000 Excluding GST *****	x							Program Leader
\$1,000 up to 10,000 Excluding GST		x			x			Program Leader
\$10,000 up to \$50,000 Excluding GST			x		x			Manager
\$50,000 Exc GST up to \$150,000 INCLUDING GST *****				x	x	x		Director
\$150,000 INCLUDING GST plus					x		x	CEO Approach Market / Council Accept Tender

**NOTE: All Thresholds are Excluding GST Except \$150,000 threshold which is INCLUSIVE GST.**

**#Excludes Aggregator Contracts – Refer to Prescribed Entity Aggregator Contracts above OR Contact Strategic Procurement for advice.**

### Attachment 3. Professional Services/Consultants Decision Table

Level of Expenditure ( Excl GST EXCEPT for \$150,000 threshold)*****	2 Verbal Quotes	2 Written Quotes	3 Written Quotes	Purchase Order	Request for Quotes	Open Tender	Sign-off Authority
Professional Services/Consultants up to \$10,000 Excluding GST	x			x			Program Leader
Professional Services/Consultants between \$10,000 up to \$50,000 Excluding GST		x		x	x		Manager/Supervisor
Professional Services/Consultants between \$50,000 Excluding GST up to \$150,000 INCLUDING GST			x	x	x		Director
Professional Services/Consultants exceeding \$150,000 INCLUDING GST				x		x	CEO Approach Market / Council Accept Tender

NOTE: All Thresholds are Excluding GST Except \$150,000 threshold which is INCLUSIVE GST.

#Excludes Aggregator Contracts – Refer to Prescribed Entity Aggregator Contracts above OR Contact Strategic Procurement for advice.