



PURCHASING MANUAL

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1. OBJECTIVES

- 1.1. To provide Council with a comprehensive purchasing service for the planned and expedient acquisition of the best possible goods, works and services at the best possible value for money.
- 1.2. To ensure observance of the provisions of the Local Government Act (1993) and Regulations and any other relevant State and Federal laws in the process (particularly in relation to Work Health & Safety).
- 1.3. To maximise the prospect of obtaining the most cost-effective outcome from invitations to suppliers and to instil confidence in the public about the cost-effectiveness of Council procurements, with consideration being given to purchase cost, environmental sustainability and impact on the community.
- 1.4. To clearly define roles and responsibilities of officers.
- 1.5. To facilitate improved financial management of Council's budget.
- 1.6. To facilitate the process of transparency and accountability for all actions required to procure goods for Council.
- 1.7. To implement a purchasing system that minimises disruption to Council's works program for all responsible officers exercising a degree of common sense and responsibility.

2. INTRODUCTION

Bathurst Regional Council has a multi-million dollar budget. Much of this budget relates to the purchase of goods or services and the aim of this manual is to provide systems and procedures that ensure that Council purchasing is conducted in an ethical, efficient, transparent, environmentally sustainable and cost effective manner.

Council undertakes purchasing activities for many reasons including, but not limited to:

- 2.1. Goods held in stock (to allow works teams to undertake daily activities with a minimum of delay).
- 2.2. Goods not held in stock (items used infrequently that are not held in stock by Council).
- 2.3. Works and services.
The quantities and cost of the items purchased by Council varies significantly and require different methods of procurement.

Procedures within this manual are based on the value of goods to be purchased:

- a) Between \$0 and \$50,000
- b) Between \$50,001 and \$250,000
- c) Over \$250,000

3. ROLES AND RESPONSIBILITIES

3.1. General Purchasing

The Purchasing Compliance Officer is responsible for the oversight of the general purchasing function of Bathurst Regional Council and ensuring compliance with the Purchasing Policy and the procedures contained in this manual.

The Workshop Coordinator, Workshop Supervisor and any other officer authorised by the General Manager are responsible for the raising of purchase orders in their areas of responsibility and within the limits of their delegations.

In the case of contracts for specific works or services a person may be nominated under the Terms of Engagement of that contract and is authorised, within the limits of their delegations, to carry out the requirements of that contract.

The goals of this manual are:

- a) Efficient use of resources.
- b) Coordination in exercising Council's purchasing power.
- c) Ensure dealings with suppliers are conducted in a transparent and professional manner.
- d) Ensure the application of consistent and standard policies and practices in dealing with suppliers.
- e) Reduced opportunity for conflicts of interest and corrupt behaviour.

3.2. Users

Users of the Purchasing System shall ensure that:

- a) They comply with all established purchasing and supply policies and procedures.
- b) All requests for a purchase must be completed via an authorised requisition. All requisitions must be authorised by an officer who has the appropriate delegations.
- c) There are funds available prior to obtaining quotations/tenders or submitting a request for purchase.
- d) They work closely with Stores to establish realistic yet cost-efficient stock levels.
- e) They adhere to the Council's Code of Conduct, comply with the Council's Statement of Business Ethics and work within their delegation limits at all times.
- f) They **do not accept any gifts of any nature** from a supplier/service provider with whom they are dealing.

4. AUTHORISATION TO PURCHASE

4.1. Delegated Authority

In order for staff to carry out their responsibilities effectively, they must exercise appropriate authority to purchase goods and services for their area of responsibility. It is each individual Director's responsibility to ensure their staff are delegated appropriate authority in line with their level of responsibility and accountability. **It is the responsibility of each individual staff member to ensure that they operate within the limits of their delegations.**

Such authority should be limited according to the following criteria:

- (a) Area of responsibility.
- (b) Recurrent operational expenditure as approved by Council in the budget.

The Purchasing Compliance Officer (or their alternate) shall have delegated authority to sign orders for goods and services.

Any Information Technology purchases (including hardware and software) must be approved by the Manager Information Services (MIS) prior to their purchase. Access to Council's computer or mobile phone network and ongoing support cannot be guaranteed if approval from MIS for these purchases has not been received prior to placement of the order.

Any delegated authorities to purchase are assigned to the ***particular position*** named, are delegated by the General Manager and ***are not transferable***. If a staff member is relieving in a position and this is **authorised in writing**, then delegated authorities to purchase are assigned automatically to the person relieving in the position. Refer to Appendix 1 for copy of higher duties form. For delegations to be assigned to a relieving position the bottom section of the form must be authorised by the Director Corporate Services and Finance or the General Manager and a copy forwarded to the pay section prior to the commencement of the relief period. **Delegations cannot be backdated.**

The Local Government Act, 1993 (LGA) and the Local Government (General) Regulation 2005 provide that, any contract for works or services over \$250,000 must be subjected to a tendering process. Section 55 of the LGA provides exemptions from the requirements for the need to call tenders. Please refer to Section 55 before commencing a tender process.

Government Contract

As per Section 55 of the Local Government Act, 1993, if a NSW State Government contract or a Local Government Procurement contract is already in place for the goods or services in question, regardless of their value, then Council has the right to purchase the goods or services off those existing contracts, without the need to conduct its own formal process.

4.2. For Services not Related to Purchasing

Some service functions may be of a type such that it is not practical to raise an

order. In such circumstances the authority to purchase may be in the form of a Council Minute or an instruction from a delegated officer. Payment for satisfactory completion of the service is initiated by a cheque requisition, duly authorised by the relevant Department, and accompanied by appropriate documentation, being forwarded to Accounts Payable. These types of payment will be limited in number.

4.3. Allocation of Funds

Apart from delegated authority to purchase, it is essential that funds are available for purchase prior to any commitment being made. This means that a financial allocation must have been made by Council in the Annual Operational Plan or subsequent reviews for the purpose to which the proposed purchase applies.

For special projects, contribution works and grant works not specifically detailed in the Annual Operational Plan, approval to purchase is dependent on the funds being available. These funds must either be received or committed in writing by the funding body, and accepted by Council. Detailed works estimates shall be provided to the Director of Corporate Services and Finance. The level of expenditure on goods, works and services is then authorised as per the works estimate. Purchasing is then subject to standard procedure.

4.4. Preference to Local Suppliers

Subject to Trade Practices and National Competition Policy requirements, where appropriate, a preference of 5% on product cost may be given to Bathurst Region based suppliers for satisfactory goods of identical properties to those offered by suppliers based outside the Bathurst Region.

Where it is intended to use this clause it must be clearly notified to all prospective suppliers prior to the closing date for receiving quotations or tenders.

5. ENVIRONMENTAL SUSTAINABILITY

A key theme of Council's Community Strategic Plan is environmental sustainability. Council has statutory obligations under the Local Government Act 1993 to "Properly manage, develop, protect, enhance, and conserve the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development (ESD)".

Council acknowledges that the purchase and use of products and services can have a profound impact on the economy, environment and society. Council and its employees will therefore make sustainable purchasing part of their daily decision making, integrating sustainability considerations into all aspects of the procurement process.

The benefits of sustainable procurement include, but are not limited to:

- Reductions in the use of energy, water and other natural resources
- Reductions in production of waste and pollution
- Reductions in environmental and human impacts of products and services
- Supporting the development of environmentally friendly products
- Improving the viability of recycling
- Protecting and conserving the environment, and

- Providing leadership to the community and local businesses

Council and its employees will procure environmentally preferred products and services whenever they perform satisfactorily, are of a similar quality and are available at a reasonable price.

In making purchasing decisions Council and its staff will:

- Give preference to products produced using sustainable methods / resources
- Encourage sustainable use of resources, eg initiatives to better manage energy and water
- Reduce environmental impacts eg greenhouse gas emissions (note that impacts should be considered over the entire lifecycle of the product)
- Reduce waste to better manage environmental risks eg minimise packaging
- Improve the health and safety of Council employees and the community
- Avoid, where possible, the purchase of products that pollute soils, air and waterways during production and use
- Avoid, where possible, the purchase of hazardous chemicals that may be harmful to human health or ecosystems
- Avoid, where possible, the purchase of products that involve inhumane or unethical treatment of animals
- Purchase products that promote social equity

6. PURCHASING PROCEDURE

6.1 Creation of Orders

PRIOR to the purchase of goods and/or services a staff member must raise a requisition for the relevant supplier. The requisition must nominate the supplier/service provider, goods/services requested and the amount of the order. If the exact amount is not known please estimate this figure. If the final invoice varies by more than 20% from the price of the order, a price variance task will need to be completed. Also, if the quantity varies at all from the order quantity a quantity variance task will need to be completed and authorised according to the delegation register.

Once the requisition satisfies the requirements of this purchasing policy (eg number of required quotes etc.) the Purchasing Compliance Officer will create a purchase order (PO). The PO will be generated and emailed or printed and then forwarded to the supplier/service provider so that they can record the PO number on any invoice raised in connection with the supply of the goods or services.

Invoices without a valid Council PO number on them will be returned to the supplier unpaid.

In some cases it is not possible to obtain multiple quotations due to the type of good or service that is being provided. Examples of this are contributions to emergency services and Upper Macquarie County Council, electricity, insurance, Australia Post, most State and Federal Agencies and legal fees (specialist). At Appendix 2 is a list of suppliers/service providers that are exempt from the requirement obtain multiple quotations. This list may be updated from time to time and the most current version will be available on the Intranet.

6.2 Receiving Goods

When the goods are received or the works and services carried out, the goods

received process must be completed, by the staff member receiving the goods. Where the goods are not delivered to the Peel Street Store, it is essential that the Requisitioning Officer be notified. This also applies to the performance of works or services. The appropriate order number must be quoted on this documentation.

In cases where the person receiving the goods is the same person who raised the order, the goods received docket must be completed by another staff member. i.e. one person cannot sign an order and authorise receipt of the goods. It is the responsibility of the staff member receipting the goods to verify that the goods have actually been received or the service supplied.

6.3 Authorisation of Payment

Once the purchase and goods receipt have been completed, further control on an organisational basis comes from the authorised signatories checking the payment prior to signing the EFT/cheque. The Council delegations register (as amended from time to time) lists those officers that are duly authorised to sign payments.

7. TYPES OF CONTRACTS

The level of expenditure will determine the method used to procure goods or services for Council. The levels currently set by Council are:-

7.1. Between \$0 and \$50,000

Procedures set out in Section 8 of this manual must be followed. All thresholds are GST inclusive.

7.2. Between \$50,001 and \$250,000

Procedures set out in Section 9 of this manual must be followed.

7.3. In excess of \$250,000

Tenders must be called and procedures set out in Section 10 of this manual must be followed.

8. PROCEDURES FOR PURCHASES WITH A VALUE BELOW \$50,000

NOTE: Purchases under this section **must not** be split to reduce the requirements for quotations etc.

Any purchase less than \$50,000 shall be undertaken in accordance with:

- the delegations of the relevant staff member that have been approved by the General Manager
- Council's adopted Code of Conduct
- Council's Adopted Annual Operational Plan, and
- the following procedures:

8.1 Purchases Less Than \$5,000:

For purchases less than \$5,000 it will not be necessary to obtain multiple quotations. However, it is still necessary for the purchaser to act within their delegated responsibilities.

8.2 Purchases between \$5,000 and \$50,000:

- a) At least two written quotes must be obtained and attached to the requisition
- b) The quotation must be accepted by a Council officer with the appropriate delegations of authority.
- c) The quotation accepted should reflect the best purchasing option available for Council
- d) In some instances, due to the specific nature of the service or goods it may not be possible to obtain multiple quotes. In those circumstances the approval of the Manager or Director (depending upon individual delegations) to undertake the works (with less than two quotes being received) must be obtained. It will be necessary to document the procedures undertaken and reasons why two quotes could not be obtained.
- e) Depending upon the value or complexity of the contract/purchase it may be necessary to create a specification for the project which can be provided to suppliers prior to obtaining of quotations.

8.3 Additional Procedures;

- (a) When obtaining quotations (either oral or written), those invited to quote should
 - All receive the request at or about the same time
 - All receive the same information
 - Represent a fair selection of available service providers
- (b) All information obtained should be recorded appropriately on Council's records management system

9. PROCEDURES FOR CONTRACTS VALUED BETWEEN \$50,000 AND \$250,000

9.1. Expenditure Levels

For contracts/purchases in this range there are two expenditure levels which will require different procedures to be followed:

- \$50,000 - \$150,000 and
- \$150,001 - \$250,000.

A list of suppliers who are exempt from the requirement to obtain quotations has been developed and is provided at **Appendix 2**. If a supplier is not on this list then the requirements for quotations in the following sections **must** be followed.

9.2. Procedures for Contracts/Purchases between \$50,000 and \$150,000

- a) The invitation to supply goods/services to council should be for 'quotations' not tenders.
- b) The recommendation for acceptance of a quotation does not have to be referred to Council but can be accepted by the General Manager or his delegated officer having authority under Council's delegations of authority.

- c) A record should be created and/or a quotation number obtained from the records section of council. All steps should then be incorporated into the file from advertising to acceptance of quotations and implementation of the contract if it involves ongoing services.
- d) At least three written quotations must be obtained and attached to the requisition, unless approved otherwise by the General Manager.
- e) The quotations should be assessed based on the pre-set criteria and the assessment should be properly documented.
- f) The reasoning and result of selection should be properly documented.
- g) All persons submitting quotations should be notified in writing by post/email about the result of the quotation process.
- h) In some instances, due to the specific nature of the service or goods it may not be possible to obtain multiple quotes. In those circumstances the approval of the General Manager to undertake the works (with less than three quotes being received) must be obtained. It will be necessary to document the procedures undertaken and reasons why three quotes could not be obtained.
- i) The minimum time set for the submission of quotations shall not be less than ten (10) business days.
- j) Depending upon the value of the contract/purchase it may be necessary to create a specification for the project which can be provided to suppliers prior to obtaining of quotations.

9.3. Procedures for Contracts/Purchases between \$150,001 and \$250,000

- a) Procedures outlined in 9.1 and 9.2 above must be followed
- b) Guidelines set out in Section 10 Tendering Procedures (below) will generally be followed except where they conflict with section 9.1 and 9.2 above.
- c) The following Clauses in Section 10 do not apply to purchases between \$150,001 and \$250,000:
 - a. 10.1 Procedures and Statutory Requirements
 - b. 10.2 Tendering Procedures
 - c. 10.9 Advertisement
 - d. 10.13 Recommendation and Approval

N.B. Advertising may still be required but it may not be necessary to advertise in the Sydney metropolitan area.
- d) A file should be created and a quotation number obtained from the records section of council. All steps should then be incorporated into the file from advertising to acceptance of quotations and implementation of the contract if it involves ongoing services.
- e) A specification for the project and the selection criteria should be pre-set, properly documented and provided as part of the quotation process.

- f) Quotes must be submitted in writing, enclosed in a plain sealed envelope marked “Confidential – Quotation No 37.xxxxx and quotation description” and addressed to the General Manager. If the quotations are delivered by hand, they should be deposited in the quotations box located in the foyer of the Civic Centre 158 Russell Street Bathurst. Quotations delivered by courier should be removed from the delivery bag prior to being placed in the quotations box.
- g) Consideration should be given to using the electronic Tenderlink process for all quotations in excess of \$150,000 to ensure that proper processes are followed and records kept.
- h) Written quotations for amounts in excess of \$150,000 should normally be deposited in the quotations box in Council’s foyer prior to the advertised closing time (usually 10:00am on Tuesday). Opening of quotations will take place as soon as practicable after the closing time. Due to the necessity to check both the Quotation Box and the Tender Box it will be necessary for at least two people to attend for the removal of the quotations. Once removed quotations should be opened by the responsible officer in the company of at least one other council employee and should be initialled and dated.
- i) Quotations do not need formal Council approval, however, must be accepted in accordance with the procedures set out in this manual and the delegations instrument.

10. TENDERS (CONTRACTS IN EXCESS OF \$250,000)

10.1. Procedures and Statutory Requirements

The procedures set out in this section cover all tenders except for the exclusions mentioned in the Local Government Act section 55(3). Section 55 of the Local Government Act, 1993 states

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,
 - (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 \$250,000 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 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.

10.2. Tendering Procedures

Tendering procedures related to the above contracts are further categorised within this manual based on their contract value:

In determining whether to call for tenders it is necessary to estimate the probable value of the contract. If there is any possibility that a contract will be of a value exceeding \$250,000 then tenders must be called. **For the purpose of estimating the contract value the estimate used must include GST.**

It should be noted that Council is not precluded from calling tenders for contracts below the value of \$250,000.

Under no circumstances should works, services or projects be broken up into smaller parts solely for the specific purpose of circumventing the tender requirements stated in these guidelines and in the Act.

Contracts should be sized and packaged with a view to maximising the economies available through the tender process and ensuring that the process provides real competition.

10.3. Tendering Methods

Council can select any one of the following tendering methods, depending on the project type and situation

- (a) Open tendering method – by which tenders for the proposed contract are invited by public advertisement;
- (b) Selective tendering method (advertising) – by which invitations to tender for a proposed contract are made following a public advertisement asking for expressions of interest; and
- (c) Selective tendering method (pre-qualification) – by which recognised contractors selected from a list prepared or adopted by the Council are invited to tender for contracts of a particular kind.

The method to be adopted for each tender is the Open Tendering Method unless otherwise approved by the General Manager.

If consultants have been engaged to assist in the tendering process or in management of the contract, this role can be identified in the tender documents.

Notwithstanding the above, such tenders are to be called in the name of Council and advertised under the signature of the General Manager.

Unless authorised otherwise by the General Manager, tenders for which Council is to be the Principal are not to be called by another party on behalf of Council.

10.3.1. Selective tendering - Expression of Interest

Expressions of interest add a step into the tendering process. They have the effect of limiting the number of tenders ultimately received.

This process should generally only be adopted for special or unusual contracts where:

- (a) the quality offered by tenderers may vary significantly
- (b) the level of service or expertise offered may be more important than price
- (c) the project is large enough to make the cost of preparing a tender a significant cost
- (d) specialised works or services are called for.

Before inviting selected tenderers to submit tenders, Council must advertise, inviting applications from persons interested in tendering. (Local Government (General) Regulation Clause 168)

10.3.2. Electronic tendering

All tenders should where practical be called by the use of an Electronic tendering method. Council has subscribed to Tenderlink (www.tenderlink.com) as its service provider for electronic tendering. Local Government Procurement is another alternative source of some materials and services.

The Local Government Act requires that Council must accept tenders by two methods, so purchase of hard copy documents and submission of tenders as per section 10.4 below is still acceptable.

10.4. Tendering Documents

When calling tenders, the following documents may be required to complete the tender package. Consideration should be given to the need for each document depending on the nature of the proposed contract:

10.4.1. Tender Submission Form

This is the form on which the Tenderer states their price, name and contact details and signs the tender.

10.4.2. Conditions of Tendering

This document states Council's standard conditions pertaining to tenders, plus any particular tendering conditions specific to this tender.

The Conditions of Tendering must cover:

- whether a tender document deposit is required; if so, how much, in what form, and what are the conditions for its refund. Tender document deposits should only be required where the cost of printing tender documents is significant. The deposit should be set having regard to the cost of printing the documents, not the cost of preparation. Tender document deposits should generally be refunded unless otherwise specified upon return of complete documents in good condition. Where electronic tendering is used, there will be no charge for provision of documents
- how late tenders will be treated
- how non-conforming tenders will be treated
- criteria to be used in evaluating tenders
- the contact person for enquiries
- the closing date and time for tenders
- how tenders are to be lodged
- the lowest or any tender may not necessarily be accepted by Council
- whether there will be a compulsory site inspection or pre-tender meeting
- the procedure for opening tenders
- a copy of the advertisement must be attached to all specification documents, so that all people applying for a copy of the specification are aware of the tender requirements, especially that tender envelopes not have the name of the tenderer on them.
- that the lobbying or liaison with Councillors prior to the consideration of tenders by Council will lead to the rejection of the offending tender. (N.B. This statement should also be included in the tender advertisement.)

10.4.3. Bill of Quantities

This may or may not be required, depending on the type of contract, this will be identified in the General Conditions of Contract.

10.4.4. General Conditions of Contract

These are general conditions governing the management of the contract and are generally standard, except for particular annexures which may need to be completed with specific details for the particular contract.

For construction or similar works or services a contract specified in the Australian Standards or an alternative contract approved by the General Manager shall be used.

In compiling the tender documents, the Conditions of Tendering must clearly indicate the document to be used.

In completing the annexures to any contract, the following guidelines should be followed:

- (i) Public Liability Insurance: The contractor will be required to obtain a

- minimum \$20 million public liability insurance policy extended to cover Council as co-insured.
- (ii) **Contract Duration:** The time for completion of the works should be explicitly stated. The time stipulated should be consistent with Council's targets but must be achievable. If no time is to be specified, but the tenderer is to nominate his completion time, this should be stated in the Conditions of Tendering. If the stated time is to be a factor in assessment of tenders this must be stated.
 - (iii) **Liquidated Damages:** These can be applied where completion of the contract occurs after the date of practical completion but must be determined with due consideration of the actual losses likely to be incurred by Council in the event of late completion.
 - (iv) **Defects Liability Period:** This would normally only apply to projects or supply contracts, where there is a need to ensure the contractor remains obliged to rectify defects in the completed works for the defined period. The defects liability period should be set with due regard for the type of work involved in the contract, industry standards and the likelihood of significant defects arising after completion of the works.
 - (v) **Retention:** This is the amount withheld from progress payments to ensure completion of works. It should only be required where there is demonstrable cost to Council in the event of default by the contractor, and should be set at 5% of the contract value (unless stated otherwise in the contract), and is additional to the security deposit. Retention sums are to be released upon completion of the contract work.

10.4.5. Specifications

- (i) The specification must be clear and concise listing the user requirements, critical time schedules and the necessary technical details.
- (ii) The tender specification should define as closely as possible, the obligations of the contractor under the contract. The specification should remove as far as possible, the existence of ambiguity and the need for interpretation.
- (iii) Specifications should preferably be based on the results, performance, and standards to be achieved under the contract. Consideration should be given to inclusion of the following factors:- purchase cost, environmental sustainability and impact on the community. The use of 'method' specifications (which prescribe how the work shall be undertaken), should be avoided where possible.
- (iv) Specifications should where necessary refer to relevant Australian Standards, Codes, RMS standards etc, ensuring that the year of publication of any reference is stated.
- (v) Consideration needs to be given to the need or otherwise to undertake the work on a Quality Assurance basis, and the additional cost this may entail.

10.5. Pre-Tender Meetings

Pre-tender meetings should be considered where the scope of work is unusual or potentially confusing to tenderers. If the contract is for any form of on site works, the pre-tender meeting should be combined with a site inspection.

Details of the pre-tender meeting/site inspection should be clearly stated in the Conditions of Tendering and the tender advertising. The fact that such meeting/site inspection is compulsory for conforming tenders should be clearly stated.

Minutes of pre-tender meetings should be taken and distributed to all tenderers in attendance. Such minutes will become part of any subsequent contract.

10.6. Closing Time for Tenders

The closing time for tenders must be clearly stated in the Conditions of Tendering and in tender advertising.

Tenders are to close at 10.00 am on the nominated date. Tenders should close on a Tuesday (except in extenuating circumstances).

The period allowed for tenders should be reasonable considering the size of the contract and the amount of work involved in the preparation of a tender. In any event the time allowed for tenders shall not be less than 21 days. (*Local Government (General) Regulation 2005 clause 167*)

Any tender not meeting the requirements stated in *Local Government (General) Regulation 2005 clause 177*, for tender closing time and mode of transmission cannot be considered.

The tender period may be varied in certain circumstances subject to compliance with statutory processes. (*Local Government (General) Regulation 2005 clauses 170 & 171*)

10.7. Criteria for Selection

- a) The criteria for selection should be clearly set at the beginning of the tendering process, and stated in the tender documents.
- b) The criteria must be set in a way that all potential tenderers are assessed on an equal and consistent basis.
- c) Criteria should not be based on price alone. Attention has to be given also to the quality of work, expertise, experience of staff, financial capacity, previous contracts, reference checks, delivery times, etc relevant to the competing tenders.
- d) Where appropriate and subject to the Trade Practices Act and National Competition Policy requirements, Council's preference may be to give 5% to Bathurst Region based tenderers as stated in the evaluation criteria.

10.8. Changes to Tender Documents

If it becomes necessary during the tender period to change any of the tender documents, the appropriate officer, must ensure that all tenderers are notified of the changes at least three days before the closing time for tenders.

If substantial changes become necessary which are likely to prevent tenderers from completing a bona fide tender or which materially change the nature of the contract, the tendering process should be cancelled and fresh tenders called.

10.9. Advertisement

- (a) To invite tenders, an advertisement must publish an advertisement

inviting tenders for the proposed contract—

- (i) on the website of the council, and
- (ii) in any other manner that the council considers necessary to bring it to the attention of persons who may be interested in tendering for the proposed contract, which may include:

- a Sydney metropolitan daily newspaper, and
- either or both of the following:
 - a newspaper circulating in the Council's area;
 - a newspaper circulating in the district where potential tenderers are likely to be carrying on business or to be residing.

(Local Government (General) Regulation 2005 clauses 164, 167, 168, 169)

(b) The advertisement must:

- (i) identify the tender number
- (ii) express the purpose of the proposed contract and a description of the works/goods or services required
(Local Government (General) Regulation 2005 cl.167 (2))
- (iii) give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents (if appropriate)
- (iv) specify that all tenders must be addressed to the General Manager in strict confidentiality
- (v) invite any person willing to fulfil the requirements of the proposed contract to submit a tender to the Council by the specified deadline
- (vi) specify closing date and time (a minimum of 21 days after the date of the first publication of the tender advertisement (usually 10:00am on a Tuesday)
- (vii) specify the name of the Council contact officer (the appropriate person) to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted
- (viii) include a statement advising that tenderers envelopes containing any written information other than the tender number or description will not be considered
- (ix) specify that the lowest or any tender may not necessarily be accepted by Council; and
- x) include a statement that the lobbying or liaison with Councillors prior to the consideration of tenders by Council will lead to the rejection of the offending tender.

(c) The appropriate person is responsible for formulating the required advertisement and selecting the date(s) and arrangement for publication. A copy of the advertisement must be attached to all specification documents and placed on the tender file.

(d) The appropriate person shall maintain a register of persons/ companies who obtain tender documents. A report shall be prepared and placed on the tender file for all tenders.

10.10. Submission of Tenders

It is the tenderer's responsibility to ensure his/her tender reaches the Council by the closing time for tenders. (*Local Government (General) Regulation 2005 clause 177*) (usually 10:00am on Tuesday)

Council will receive tenders in the following formats:

- by written submission
- via electronic transfer

Council must receive the complete tender prior to the closing time.

10.10.1 Written Submission

- i. Written tenders must be enclosed in a plain sealed envelope marked "Confidential – Tender No 36.xxxxx and tender description" and addressed to the General Manager Private Mail Bag 17 Bathurst NSW 2795. Tenders received in envelopes with the tenderers name or other identifying information will not be considered.
- ii. If the tenders are delivered by hand, they should be deposited in the tender box located in the foyer of the Civic Centre at 158 Russell Street, Bathurst. Tenders delivered by courier should be removed from the delivery bag prior to being placed in the tender box. (*Local Government (General) Regulation 2005 clause 174*)

Tenders documents must be submitted in stapled or loose leaf format only to assist Council to keep appropriate records of all tenders received.

Bound documents will not be accepted.

10.10.2 Submission via electronic transfer

- i. Tenders submitted by electronic transfer must be received by Council by prior to the closing time for tenders (usually 10:00am on Tuesday).
- ii. Electronic tenders must be submitted to council@bathurst.nsw.gov.au or via the electronic tender portal being used by council as specified in the tender advertisement. Do not send to the appropriate person.
- iii. The following documents from the tender specification Schedule C Tender Form & Schedules D1A, D1B, D2, D3 & D4 (where required) must be submitted as one separate file. All documents must be in PDF format with no password or Protection. The company trading name with Tender Number must be included in the filename (Example :acme_roads_scheduleC_36-00111)_
- iv. All other documents are to be submitted as a separate attachment with the company trading name, attachments and the tender number included in the file name.(Example :acme_roads_attachments_36-00111). All documents must be in PDF format with no password or Protection.
- v. The above two documents may be zipped to allow for easier submission but must be provided in a .zip format only.

The Records Supervisor is responsible for ensuring that such tenders are enveloped and marked for identification, and deposited in the tender box until the closing time for tenders. (*Local Government (General) Regulation 2005 clause 173*)

In the case of tenders being received by an electronic tendering method, Council does not require a hard copy to be received.

- (a) The methods of tender submission mentioned above must be specified in the tender documents.
- (b) The tender box and its security are the responsibility of the Manager Financial Services. Tenders received must remain locked in the tender box until the closing time for tenders.

10.11. Opening of Tenders

- (a) The tenders must be opened by the appropriate person (*Local Government (General) Regulation 2005 clause 164*) in the presence of:
 - i. at least two officers delegated by the General Manager. (*Local Government (General) Regulation 2005 clause 175 (i) (a)*)
 - ii. Any tenderers and members of the public who wish to attend.

Any person who attends the opening, is entitled, on request, to be informed as to whether the Council has received a particular tender and the number of tenders received and is not entitled to receive any other information about the tenders. (*Local Government (General) Regulation 2005 clause 175 (2)*)

In the case of tenders being received by an electronic tendering method, the Records Supervisor (or appropriate Records staff member) will be responsible for downloading the tender submissions and electronically forwarding the tender form to the Manager Financial Services or other appropriately appointed officer for recording of the tenders received in accordance with item (a) above.

- (b) The Tender Box will be cleared as soon as practicable after the closing time for the tender (usually 10:00am on Tuesday) and tenders received will be recorded. Electronic tenders through portals such as Tenderlink will be downloaded from the electronic portal as soon as practicable after the closing time for the tender. They will then be processed by the Records Section and forwarded to the Manager Financial Services (or the appropriate person).
- (c) As soon as practicable after the tenders for a proposed contract have been opened, the Manager Financial Services or the appropriate person must prepare a public tender list specifying, the names of the tenderers in alphabetical order. (*Local Government (General) Regulation 2005 clause 175 (3)*) and must be signed by the Officers who attend the opening.
- (d) This public tender list is to be placed on the Council notice board in the foyer (*Local Government (General) Regulation 2005 clause 175 (4)*) and is to be removed after the Council meeting at which the tender is

considered. A copy of the list is to be held on the file.

10.12. Assessment of Tenders

- (a) Assessment must be performed by the Appropriate Person and any other Council officer considered appropriate to the tender based on the pre-set criteria specified in the tender document.
- (b) The details of all tenders received should be checked by the Appropriate Person against the specification. All the checking work must be properly documented and placed on the tender file.
- (c) The Appropriate Person may, in some circumstances, search for independent source/s of reference in addition to those provided by the tenderer to ensure a more accurate assessment.
- (d) Reports must be prepared for every assessment meeting and the basis of assessment of tenders recorded and placed on the tender file.
- (e) If it is considered that the interests of Council will not be best served by acceptance of any of the tenders submitted, the reasons for such conclusion should be recorded and placed on the tender file.
- (f) Tenders may be varied by way of (a) explanation or clarification or (b) correcting a mistake or anomaly. If such variation becomes necessary, all tenderers who have the same or similar characteristics must be afforded the opportunity of varying their tenders in a similar manner. The relevant statutory provisions must be observed. (*Local Government (General) Regulation 2005 176(2)*). Such a variation may be either made at the request of the Council or with the consent of Council at the request of the tenderer.

Council must not consider such a variation if it would substantially alter the original tender. (*Local Government (General) Regulation 2005 176(4)*).

10.13. Recommendation and Approval

- (a) After going through the assessment process, a formal recommendation shall be prepared by the Appropriate Person.
- (b) The recommendation should include the details of tendering procedures, a list of names and amounts of tenderers, the tenderer selected, the rationale of selection and any other details necessary for the final decision.
- (c) The recommendation must be submitted to the Council for approval. Purchases through approved bodies such as Local Government Procurement do not require Council approval.
- (d) After considering the recommended tenderer, the Council must either accept one of the tenders or accept no tenders. If the Council decides not to accept any of the tenders, it must by resolution, do one of the following:
 - (i) postpone or cancel the proposal for the contract;
 - (ii) invite in accordance with clause 167, 168 or 169 fresh tenders based on the same or different details;

- (iii) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
 - (iv) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
 - (v) enter into negotiations with any person (whether or not that person was a tenderer) with a view to entering into a contract
 - (vi) carry out the requirements of the proposed contract itself. (*Local Government (General) Regulation 2005 clause 178*)
- (e) Reports to Council about tenders and recommendations in respect thereof shall be confidential.

10.14. Tender Notification

- (a) As soon as a decision is reached, all tenderers are to be notified of Council's decision (*Local Government (General) Regulation 2005 179*). The letter advising unsuccessful tenderers will include the following information;
 - that their tender was unsuccessful and
 - the name of the successful tenderer
- (b) A letter of acceptance is to be sent to the successful tenderer within two days of the ordinary Meeting advising of Council's determination and outlining steps that need to be taken by the Contractor to establish the contract.
- (c) All the notifications shall be made in writing and sent by post/email.
- (d) In a case where no tender is accepted, the following procedure will apply.
 - all tenderers are to be notified of Council's decision that no tender was accepted by Council.
 - all notifications shall be made in writing and sent by post/email.

10.15. Record Keeping Requirements

In order to ensure transparency in the tender process it is necessary to record all information on the Council file. This will include but is not limited to the following information:-

- Advertisement
- Tender specification
- Any additional information supplied after commencement of the advertising process
- Record of site meeting (if held)
- Records of all assessment panel meetings
- Any clarification of tenders received
- Recommendation and report to council
- Signed contract

11. PURCHASES OF A RECURRENT NATURE

- 11.1. To avoid the necessity of repeating the full set of tendering procedures on each recurring purchase, the following methods or any other alternative methods as considered appropriate and approved by the General Manager or appropriate Director may be adopted:

- (i) period contract (where a single contractor/supplier is selected for a specified period); or
- (ii) approval list, where:
 - based on the tenders/quotations received, a list is drawn up of service providers who comply with the quotation requirements; The list will show the service provider/contactors' name, the service provided and the price quoted.
 - Council has resolved to approve the list, with preference generally being given in each particular instance, to the lowest price tender/quotation, subject to availability, and satisfactory service;
 - any subsequent work should be given to contractors **on the approved list only**. No new contractor should be allowed to carry out the work, irrespective of price, without the calling of fresh tenders/quotations.

11.2. Nothing in this section precludes the option of calling of separate tenders or quotations for works of a similar nature, for a specific work or project, if there is reason to believe this may result in advantage to Council.

11.3. Both types of contracts as described in 11.1 should be renewed with fresh tenders or quotations invited on the expiry of the existing contract period.

11.4. Except for the difference mentioned in 11.1, the same procedures described in the previous part of this document should be applied.

12. ASSESSMENT

The officer calling for quotations is to summarise quotes received, and submit the summary to the General Manager, or delegated officer to accept quotations.

13. INDEPENDENCE AND EQUITY

13.1. No member of staff may take any part in the preparation, administration or assessment of tenders/quotations if he/she is related to or in any manner associated with a prospective tenderer/supplier or person acting for a prospective tenderer.

13.2. Any member of staff who becomes aware of a potential conflict of interest because of his/her relationship to or association with any tenderer/supplier or prospective tenderer/supplier shall immediately notify the designated officer, in writing, and shall take no further part in the proceedings relating to that tender.

13.3. The Appropriate Officer shall ensure that :

- (i) no discrimination is allowed to apply to or against any tenderer/supplier; and
- (ii) that all tenderers/suppliers are provided with the same information in relation to the tender/quotation.

14. CONFIDENTIALITY

14.1. The Appropriate Officer has the obligation to keep all tendering and quotation

information confidential.

- 14.2. All Council officers associated with the tender or quotation in any manner whatsoever, have the duty to keep all tendering information confidential.
- 14.3. When required to be submitted in the Quotation/Tender Box all quotations/tenders should be submitted in a plain sealed envelope marked 'Confidential – Quotation/Tender No xx.xxxxx and quotation/tender description' and addressed to the General Manager (PMB 17 or 158 Russell Street Bathurst NSW 2795). Quotations/Tenders identified in this manner must upon receipt be immediately placed in the Quotation/Tender Box.
- 14.4. Tenders and quotations received by email shall be transmitted to the Appropriate Officer after closing time, by the Records Supervisor.
- 14.5. Tendering information should not be disclosed without the permission of the tenderer, except that information required to be disclosed under the Local Government Act, 1993 and Regulation.
- 14.6. Reports to Council relating to tenders shall contain only as much information about individual tenders as is necessary to allow Council to reach its decision.

15. LOCAL GOVERNMENT ACT

- 15.1. This set of purchasing procedures is designed specifically for Bathurst Regional Council.
- 15.2. This policy is to be implemented in addition to the Local Government Act 1993 and the Local Government (General) Regulation 2005 and any other legislative requirements.
- 15.3. For any matters stated in the Local Government Act 1993 but not included here, the Act is to be followed.
- 15.4. For any conflicts between this policy and the Local Government Act 1993, the Act prevails.

16. DEFINITIONS

APPROPRIATE PERSON

In relation to a tender submitted to a council, means a person designated by the General Manager to receive or deal with tenders submitted to the council and, if a person is not designated, means the General Manager. (Local Government (General) Regulation 2005)

ACCOUNTS PAYABLE

One to whom money is due. The Accounts Payable Section within the Corporate Services and Finance Department is responsible for processing and recording credit transactions.

CONTRACT

An agreement enforceable by law between two or more parties for the supply of goods, works or services.

QUOTATION

A quotation is an offer made by a supplier to Council for goods, works or services at a price.

TENDERS

A tender is an offer made by a supplier of goods, works or services to supply nominated goods, works or services for a price to Council and is in accordance with the Regulations of the Local Government Act, 1993 and the Local Government (General) Regulation 2005.

APPENDIX 1

Please do not use a copy of this page but go to the Council intranet for the latest version of this form.



Civic Centre:
158 Russell Street
Correspondence:
Private Mail Bag 17
BATHURST NSW 2795

Telephone 02 6333 6111
Facsimile 02 6331 7211
council@bathurst.nsw.gov.au
www.bathurst.nsw.gov.au

OFFICE USE ONLY

HIGHER DUTIES FORM

TO: DIRECTOR CORPORATE SERVICES & FINANCE
FROM: (DIRECTOR)
DATE:/...../.....
SUBJECT: **HIGHER DUTIES RECOMMENDATION**

..... has been requested to carry out the duties of
 Name of Employee
 from to as
 Position relieving in Start of leave End of leave
 is on
 Name of normal Job holder
 Annual Leave Sick Leave Long Service Leave
 Other (please specify)

I recommend that higher duties be paid at Grade ____ Step ____ \$ ____
 Signed:
 DIRECTOR

Higher duties detailed above have: been approved / not been approved.

Signed:
 Director Corporate Services & Finance

(Payroll office use only)

Payroll Number

NORMAL WEEKLY PAY	\$	HIGHER DUTIES RATE OF PAY	\$	DIFFERENCE TO BE PAID	\$
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Week Ending	Amount	Week Ending	Amount	Week Ending	Amount
	\$		\$		\$
	\$		\$		\$
	\$		\$		\$
	\$		\$		\$

.....
 This section of AUTHORISED form to be forwarded to PURCHASING COMPLIANCE OFFICER

..... has been requested to carry out the duties of
 Name of Employee
 from to
 Position relieving in Start of leave End of leave
 Name of normal Job holder
 Signature:
 Director Corporate Services & Finance

The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.

APPENDIX 2**SUPPLIERS EXEMPT FROM REQUIREMENT TO OBTAIN QUOTATIONS**

SUPPLIER NAME	GOODS/SERVICE PROVIDED
Jardine Lloyd Thompson	Insurance renewals (annual)
Ministry for Police & Emergency Services	Statutory Contributions to RFS, SES & FRNSW (quarterly)
Statecover Mutual	Workers Compensation Insurance renewal (annual)
Statewide Mutual	Public Liability/ Professional Indemnity Insurance renewals (annual)
Tenders	Progress payments for tenders adopted by Council and within the tendered figure.
Preferred Suppliers List	Suppliers approved by resolution of Council as "preferred suppliers" for a specific period
Energy Suppliers eg Essential Energy, Origin etc.,	For supply of energy only as there is only one supplier in each area.
State Government Departments	Generally these would be State Govt imposed charges and there are no other suppliers.
Western Advocate	Only newspaper circulating in the local area.
Federal Government Departments	Generally these would be Federal Govt imposed charges and there are no other suppliers.
Roads and Maritime Services	This is a State Govt department which council deals with regularly
CENTROC	Council contributes to CENTROC initiatives and there is no alternative supplier
Crennan Legal	Specialist law firm dealing in Local Government and Planning Legislation
Upper Macquarie County Council	Council has delegated its Noxious Weed function to UMCC and there is no other supplier

Appendix 2: Date Last Updated __/__/____

David Sherley, General Manager.