35 TENDER POLICY

File Reference No:

Strategic Outcome: Good government

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Responsible Officer: Director Technical Services

1. POLICY STATEMENT

Where required by legislation or otherwise appropriate, the Council will seek to obtain goods and services by means of a competitive tender process. It is important that this process is ethical, transparent, accountable and effective.

This policy forms part of the Council's Procurement and Disposal Framework and should be read in conjunction with the Council's Procurement and Disposal Policy and the other policies that form that framework.

2. PURPOSE

The purpose of this policy is to define the key tender principles adopted by Council and to ensure that Council officers are aware of their responsibilities and the applicable conditions and procedures regarding tenders

The policy will provide consistent advice about the competitive tendering of and for Council services, describes Council requirements in relation to ethical behaviour in relation to tendering and will maintain competitiveness and ensure best value of goods and services provided to the Council

3. SCOPE

This policy applies to:

- Councillors
- Council officers
- Suppliers awarded contracts via the tendering process
- Prospective suppliers supplying tenders to the Council.

The policy covers:

- all purchases by the Council over the tender threshold, and
- the entire process of inviting and assessing tenders for goods and services by the Council

4. OBJECTIVE

This policy is developed to assist the Council with Delivery Plan Objective 2.2.2.3:

Coordinate Council investments, financial management, financial operations and processing.

5. DEFINITIONS

Best value: As defined in the Council's Procurement and Disposal Policy, best value represents the best return and performance for the money spent on procurement of goods and services.

Best value is not simply the best price. In determining what best value is, Council officers must consider:

- price
- "whole of life" and other ongoing costs
- fitness for purpose
- suitability
- availability and timeliness
- prior performance
- statutory compliance and work health and safety

Council officer: Any person who has authority to purchase goods and services on behalf of the Council. This includes, but is not limited to, Council employees, contractors, volunteers and other agents of the Council.

Public tender: Method by which tenders for the proposed contract are invited by public advertisement per Clause 166(a) of the *Local Government (General) Regulation)* 2005

Prescribed organisation: An organisation listed in Clause 163(1A) of the *Local Government (General) Regulation* 2005. The Council is permitted to use contracts prepared by these organisations to obtain goods and services without having to seek tenders.

Tender threshold: An amount in dollars as determined and published by the NSW Division of Local Government. This amount is shown in Clause 163(2) of the *Local Government (General) Regulation* 2005

6. POLICY IMPLEMENTATION

6.1 General principles

In conducting a request for tender, the Council will

- comply with its statutory obligations;
- act in an ethical, transparent and accountable manner;
- act fairly and even-handedly;
- maintain commercial confidentiality in line with legislation and Council policy
- seek “best value” outcomes.

At all times, Council officers must be aware of their responsibilities to act in the best interests of the Council and the community when handling public funds.

6.2 Roles and Responsibilities

The General Manager will appoint Council officers to the following responsibilities:

- Council officers responsible for opening submitted tenders
- Tender Evaluation Panel
- Tender Evaluation Panel Chairperson

The Tender Evaluation Panel Chairperson will be responsible for the overall conduct of the tender process, including ensuring compliance with relevant legislation, regulations, Office of Local Government guidelines and Council policies.

6.3 Methods of tendering

All requests for tenders invited by the Council will be public tenders, unless in exceptional circumstances and expressly approved by the General Manager.

6.3.1 E-Tendering

Where the Council chooses to conduct its own tender, the tender will be conducted through an electronic, online tender system.

The E-Tendering system will operate within an appropriate policy and security management framework that incorporates threat and risk assessment, regular review and audit.

In addition to electronic tender submissions, the Council may, at the discretion of the General Manager, choose to allow submission of tenders in hard copy form at the Tender Box, located at the Council Administration Office.

6.3.2 Use of Prescribed Organisations

With the express approval of the General Manager, the Council may avail itself of the option under section 55(3)(a) of the *Local Government Act* 1993 to use a contract from a prescribed organisation in lieu of requesting a tender in its own right.

Council officers using a prescribed organisation should still ensure that Council is receiving best value.

Where a prescribed organisation has been used for a purchase greater than the tender threshold amount, an information report outlining the successful bid and the evaluation of the quotations must be presented to the next meeting of the Council.

6.4 Record maintenance

The Tender Evaluation Panel Chairperson is responsible for ensuring that all relevant documents relating to a request for tender are kept and secured, in line with the Tendering Guidelines for NSW Local Government.

The Tender Evaluation Panel Chairperson is also responsible for controlling access to all documents relating to a request for tender.

6.5 Assessment

Tenders will be assessed under formal evaluation criteria and weightings. These criteria and weightings will be included in the tender documentation.

6.6 Risk Management

Risk Management is the systematic positive identification of threats and the identification of opportunities for the best use of resources.

Throughout the tender process, the Council will ensure that risks associated with the process are identified and are treated in accordance with the Council's Risk Management Policy and Framework.

7. RELATED POLICES AND STRATEGIES

7.1 Legislation

- *Local Government Act* 1993
- *Local Government (General) Regulation* 2005

- *State Records Act* 1988
- *Government Information (Public Access) Act* 2009.
- *Privacy and Personal Information Protection Act* 1998.
- *Public Finance and Audit Act* 1983

7.2 Other plans, policies and strategies

- Tendering Guidelines for NSW Local Government
- Berrigan Shire Council Risk Management Framework
- Berrigan Shire Council Code of Conduct
- Berrigan Shire Council Statement of Business Ethics
- Procurement and Disposal Policy