

9.8 Procurement Policy Review

REPORT BY THE PROCUREMENT MANAGER
TO 20 FEBRUARY 2019 ORDINARY MEETING
GOV400067, GOV400047

RECOMMENDATION

That Council:

1. **receive the report by the Procurement Manager on the Revised Procurement Policy Review; and**
2. **adopt the revised Procurement Policy.**

Executive summary

A review of Council's procurement policy was presented to Council on the 12 December 2018. Council approved the Policy subject to a 28 day exhibition period (ending in January 2019). No submissions were received. However, minor typographical errors have been identified by staff and amended, with the report now presented to Council for final approval. The updated Policy with track changes are shown on the attachment to this report.

Disclosure of Interest

Nil.

Detailed report

It was documented at the Council Meeting on the 12 December that the Policy be accepted pending a 28 days exhibition. Should no submissions be received, the Policy would be accepted, without further presentation to Council. However, Council staff have since identified some typographical errors in the original Policy presented in December and have provided these amendments to Council for endorsement, for the purpose of transparency.

Alterations proposed are identified via track changes in the attached document. All alternations to this Policy aim to improve the information available for users of the Policy by reducing areas that require interpretation, assumed knowledge or reference to another document for key information.

Community Plan implications

Theme	Good Governance
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Goal	An effective and efficient organisation
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Strategy	Prudently manage risks association with all Council activities
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Strategic implications

Council Strategies

Not applicable.

Council Policies

By adopting the recommendation, Council is endorsing the Procurement Policy by permitting the highlighted typographical changes and noting that the policy does not need to be placed on exhibition.

Legislation

Not applicable.

Financial implications

Not applicable.

Associated Risks

Not applicable.

KRISTIE WARD
PROCUREMENT MANAGER

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

7 February 2019

Attachments: 1. POLICY Adopted Procurement Policy CM 12-12-18 Min.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY Procurement Policy

*A prosperous
and progressive
community.*

ADOPTED		VERSION NO	2.0
COUNCIL MEETING MIN NO	367/18	REVIEW DATE	DECEMBER 2019
DATE: 12 DECEMBER 2018		FILE NUMBER	GOV400047

Objective

This policy aims to ensure Council's procurement of goods and services is legal, ethical and to Council's best advantage. The outcomes of this policy are:

- Open and fair competition;
- Value for money;
- Enhancement of the capabilities of local business and industry;
- Environmental protection; and
- Ethical behaviour and fair dealing
- Maintaining a high standard of health & safety management

Legislative requirements

- Local Government Act 1993
- Local Government (General) Regulation 2005
- WHS Act 2011

Related policies and plans

- Local Preference Policy
- Service Provider Management Policy
- Gifts & Benefits Policy
- Code of Conduct
- Statement of Business Ethics
- Risk Management Policy
- Disposal of Assets Policy
- HRWHS 008 WHS Responsibilities
- HRWHS 059 (Procedure) Framework for the Safety Management of Contractor & Construction Project Works

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Policy

In entering into contracts for the carrying out of work, or the supply of goods and services, Council officers will have regard to Mid-Western Regional Council's purchasing objectives as set out above.

Every effort should be made to ensure businesses operating within the Mid-Western Regional Council area are given an opportunity to quote.

The general objectives of this policy apply to all purchases regardless of whether payment is made via traditional Accounts Payable processes, petty cash or corporate purchase cards.

Those persons/organisations providing goods and services to Council shall be considered to be agents of Council and shall be required to comply with Council's relevant policies.

Breach of the requirements of this policy may result in disciplinary action.

Training of Staff

Staff involved in the procurement of goods and services will be appropriately trained in the relevant procedures to be followed.

Delegation of Authority

The General Manager has delegated authority to incur financial expenditure on behalf of Council under the following provisions:

- Where expenditure has been provided for in Council's budget; or
- to respond to an emergency, community safety issue or potential public liability issue at a cost not exceeding \$50,000;

The General Manager is authorised to enter into contracts on behalf of Council within the expenditure delegation authorised. The Delegation of Authority for the General Manager at item 3.2 allows the General Manager to accept Council tenders with a contract value of up to \$1,000,000 or a contract entered into through a prescribed entity tender, where all other tender requirements of section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government Regulation 2005* are met.

Other Council Officers may only incur expenditure on behalf of the Council if:

- The Officer has been granted a financial delegation by the General Manager and such delegation is recorded in the Delegations Register; and
- The expenditure is provided for in Council's budget; or
- In the case of genuine emergency or hardship where the power to incur expenditure in these circumstances has also been delegated.

Council Officers may only receive an expenditure delegation greater than \$1,000 where the Officer has completed appropriate training or has relevant experience which, in the opinion of the General Manager, qualifies the Officer to the delegated level.

Any Officer incurring expenditure may only do so in accordance with any constraints imposed by the Council or the General Manager in respect to a financial delegation.

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NO OFFICER OTHER THAN THE GENERAL MANAGER MAY HAVE A PROCUREMENT DELEGATION EXCEEDING \$150,000.

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Splitting of Orders

Council Officers are prohibited from splitting orders for the purposes of acquiring goods or services above their delegated financial and procurement levels, or to avoid the necessity to obtain quotes or call for tenders.

When party to a trade-in on goods, the delegated level of authority will be used for the purchase price of the goods not the purchase value less the trade in price.

Promotions & Incentives

The offering or acceptance of promotional goods, rewards, benefits or any other form of incentive in relation to the purchase of goods and services is strictly prohibited. Refer to Council's Gifts and Benefits Policy.

Allocation of Funds

Apart from delegated authority to purchase, it is essential that funds are made available for a purchase prior to any commitment being entered into. ~~A budget allocation must have been made by~~ Council in the Operational Plan or subsequent reviews for the purpose to which the proposed expenditure applies.

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For special projects, contribution works, and grant works not specifically detailed in the Operational Plan, approval to purchase is dependent upon the funds being available. These funds must either be received or committed in writing by the funding body and accepted by Council.

For any job which exceeds the preliminary estimate by more than an immaterial amount, initial approval for works to commence must be given by the General Manager and reported to Council via the Quarterly Budget Review process.

Budget allocations are provided for a purpose. Expenditure contrary to this purpose, (such as using a budget in one area to cover another, or using a recurrent budget to fund a capital purchase and vice versa), must be approved initially by the General Manager and then reported to Council via the Quarterly Budget Review process.

Aggregation of Requirements

Council has the opportunity to utilised contracts offered by Prescribed Entities (Local Government Procurement & Procurement Australia). Council Officers are encouraged to seek opportunities to aggregate purchases within these alliances as well as other groups when applicable.

Local suppliers should be encouraged to submit a quotation or tender in these circumstances (with the Prescribed Entities), and advertising of such tenders or expressions of interest in locally circulated media (Community News, Mudgee Guardian) is essential.

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Purchase of Goods and Services up to \$100

Purchases may be made via corporate credit cards or out of petty cash except as defined otherwise by the General Manager. The use of official purchase orders is also available, but not preferred.

Purchase of Goods and Services above \$100 and up to \$1,000

Purchases may be made via corporate credit card except as defined otherwise by the General Manager. An alternative to a corporate card purchase is the use of a purchase request form upon receipt of the invoice. The use of an official purchase order is also available, but not preferred. Council staff may either request a specific purchase order or utilise Council's monthly order process.

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For various services involving recurrent payments, such as telephone and electricity accounts, subscriptions, credit card purchases and monthly rentals, it is impractical to raise orders prior to receipt of the invoice.

Purchase of Goods and Services above \$1,000 and up to \$10,000

Purchases must be made by submitting an official purchase order to the supplier. Exceptions to placing a purchase order will be made for various services involving recurrent payments, such as telephone and electricity accounts, subscriptions, credit card purchases and monthly rentals, where it is impractical to raise orders prior to receipt of the invoice.

Purchases must be undertaken by:

- Accessing a Standing Offer Arrangement (SOA); or
- Accessing a Preferred Supplier Arrangement (PSA) or Pre-qualified Supplier Arrangement (PQA) (via Vendor Panel where applicable) or
- Obtaining at least two quotes (sole supplier situations excepted); including consideration for Council's Local Market Place on Vendor Panel; or
- Accessing Government contract pricing.

An exemption from obtaining two written quotations may only be issued by the Chief Financial Officer or the General Manager. An exemption must be obtained in writing using the approved form.

When utilising SOA, PSA or PQA procurement methods, Council must ensure that there is provision for the evaluation of the arrangements, including the removal of a supplier from an arrangement because of poor supplier performance.

An SOA or a PSA may be established if:

- The supply of goods or services is needed in large volumes and on a frequent basis; and
- Use of an SOA or PSA will obtain better value for money by aggregating demand for the goods or services required.

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Purchase of Goods and Services above \$10,000 and up to \$50,000

Purchases must be made by submitting an official purchase order to the supplier. Public advertising for quotations is encouraged but is not essential. If public advertising is used, the responsible Director or Council's Procurement Manager will assess the coverage of such public advertising.

Purchases must be undertaken by:

- Accessing a Standing Offer Arrangement (SOA); or
- Accessing a Preferred Supplier Arrangement (PSA) or Pre-qualified Supplier Arrangement (PQA); (via Vendor Panel where applicable) or
- Obtaining at least three written quotes (sole supplier situations excepted) including consideration for Council's Local Market Place on Vendor Panel; or
- Accessing Government contract pricing.

An exemption from obtaining three written quotations may only be issued by the General Manager. An exemption must be obtained in writing using the approved form.

All quotations received are to be given due consideration in accordance with Mid-Western Regional Council's purchasing objectives.

All persons and organisations that provide a quotation must be advised in writing of the outcome.

When utilising SOA, PSA or PQA procurement methods, Council must ensure that there is provision for the evaluation of the arrangements, including the removal of a supplier from an arrangement because of poor supplier performance or the inclusion of Council's Service Provider Management Policy.

An SOA or a PSA may be established if:

- The supply of goods or services is needed in large volumes and or on a frequent basis; and
- Use of an SOA or PSA will obtain better value for money by aggregating demand for the goods or services required.

Purchase of Goods and Services above \$50,000 and up to \$149,999

Purchases must be made by submitting an official purchase order to the supplier.

Purchases must be undertaken by:

- Accessing a Standing Offer Arrangement (SOA); or
- Accessing a Preferred Supplier Arrangement (PSA) or Pre-qualified Supplier Arrangement (PQA); (via Vendor Panel where applicable) or
- Accessing Government contract pricing; or
- Public advertising for quotations. The responsible Director or Chief Financial Officer will assess the coverage of such public advertising.

An exemption from public advertising for quotations may only be issued by the General Manager. Should such an exemption be issued, a minimum of three written quotations must be obtained. An exemption must be obtained in writing using the approved form.

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All quotations received are to be given due consideration in accordance with Mid-Western Regional Council's purchasing objectives.

All persons and organisations that provide a quotation must be advised in writing of the outcome.

At the end of major procurements, the performance of the contractor or supplier should be assessed. This information can be used in the assessment process for the award of future contracts.

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Purchase of Goods and Services above \$150,000

Purchases in this category shall be administered in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005.

An official purchase order must be raised, and submitted to the supplier.

At the end of major procurements the performance of the contractor or supplier should be assessed. This information can be used in the assessment process for the award of future contracts.

Tendering

Section 55 of the Local Government Act 1993, in conjunction with the Local Government (General) Regulation 2005, provides the legislative framework that promotes the consistent use of good practice standards in local government tendering in a manner that is clear, consistent and readily accessible to all persons.

Tenders will be called for the provision of goods and or services that exceed \$150,000 in value (including GST). Exceptions may apply in certain circumstances as provided by section 55(3) of the Local Government Act 1993.

Whenever Council is required by section 55 of the Local Government Act 1993 to invite tenders before entering into a contract, Council must decide the tendering method to be used. The options are:

- The open tendering method by which tenders for the proposed contract are invited by public advertisement;
- The selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for Expressions of Interest;
- The selective tendering method by which recognised contractors selected from a list prepared or adopted by Council are invited to tender for proposed contracts of a particular kind.
- Or, Accessing a Standing Offer Arrangement (SOA); accessing a Preferred Supplier Arrangement (PSA); or accessing a Pre-qualified Supplier Arrangement

Part 7 of the Local Government (General) Regulation 2005 outlines the requirements for tender processes. The legislation and regulations should be complied with in all instances.

Council has a detailed Tendering Toolkit to guide Officers through the tendering process. This toolkit must be used for all tenders conducted by Council.

Tenders should be evaluated based on Council's purchasing objectives as well as but not limited to previous performance of contractors.

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Accessing tenders through external organisations & prescribed entities

Council has the option to access tenders conducted by external organisations. This practice eliminates the need for Council to tender as an individual when there is demonstrated value for money from our alternatives due to a 'bulk buy' methodology.

Council can access current tenders listed with Local Government Procurement (Prescribed Entity), Procurement Australia (Prescribed Entity) and Regional Procurement by following the relevant participation procedures. Council is not limited to utilising tender arrangements as sought by the abovementioned organisations and is encouraged to utilise the most effective method of Tendering for Council's purchasing objective.

Council have the capability to compare pricing and if an alternative is deemed better value for money than we are capable of obtaining as a single organisation we may utilise these alternatives. Considerations must also be given to Contract terms and conditions of the alternative tender to ensure the needs and expectations of Council are met

When Council participate in an external organisation tender the project manager should assess the qualification criteria including compliance, standing offer deed, specifications and any evaluation criteria if available. Considerations must also be given to contract terms and conditions of the tender to ensure the needs and expectations of Council are met.

When accepting a tender conducted by an external organisation appropriate approvals must still be sought from either Council or the General Manager, depending on estimated contract value.

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When Council utilise tenders from Prescribed Entities, an approved panel of Service Providers is supplied. Where Council spend for any one quote is estimated to exceed \$150,000, and prior to approaching the panel of approved service providers, Council staff must obtain permission to proceed from the General Manager through Council's Procurement Evaluation Plan. Once this documentation has been completed and approved, Council staff approach the appropriate approved Service Providers (via appropriate formats i.e. e-quoting portals) to provide a quote under the conditions of tender by the Prescribed Entity for the goods/services required. The evaluation of the responses (quotes) must align to the methodology stated in the approved Procurement Evaluation Plan. The outcome does not require further approvals, however for the purpose of transparency it is recommended.

Amending Tendered Rates

Tendered rates cannot be amended mid-contract unless the original tender documentation and contract specifically permits rate increase considerations. All requests for rate increases must be made in writing to the appropriate Council delegate and must not exceed the most recent annual CPI rate increase (nearest quarter) All Groups (or the rate specified in the tender/contract). All approved increases must be responded to in writing from Council's delegate.

Due Diligence

Due diligence of suppliers is to be carried out, where appropriate, where a tender is not required.

Due diligence of any supplier must be carried out in all Tender situations.

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Receipt of Goods and Services

When the goods are received or the works and services carried out, a Goods Received declaration shall be completed in the prescribed format.

Council Specific Procurement

Council will call for tenders on a regular basis for the provision of certain goods and services. The frequency of tenders will be guided by legislative requirements and operational needs. These contracts may include, but are not limited to:

- The supply of fuel and oils
- Cleaning of Council premises
- Security services
- Bitumen sealing
- Electricity supply
- Telecommunications

Tenders for casual plant hire will be publicly advertised as required. The advertisement will call for fixed rates from owners of specialised plant and equipment, for projects required to be carried out by Council on an as required basis. Quotations for capital works and any works over the nominated threshold value stated in the tender documents will be sought from these suppliers via VendorPanel.

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Tenders for casual hire of trade services will be publicly advertised as required. The advertisement will call for pre-qualified suppliers of trade services for projects and routine maintenance required to be carried out by Council on an 'as required' basis. Quotations for capital works and any works over the nominated threshold value stated in the tender documents will be sought from these suppliers via VendorPanel prior to engagement.

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Certificates of Insurance

Service providers must have appropriate levels of public, products liability and professional indemnity insurance as necessary. Service providers must also provide evidence of their workers compensation coverage where applicable. All required Certificates of Currency for appropriate insurance must be downloaded into VendorPanel prior to the engagement. If procuring outside of VendorPanel, service providers must provide relevant insurance requirements to the engaging Council staff member.

Service providers identified to be working with (near) children or vulnerable people will be required to complete Police Checks for subcontractors & working with children checks prior to entering any relevant site.

Publication of Successful Tenderers and Expressions of Interest

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Council will maintain a register showing those successful Service Providers to Council in those cases where the contract value is in excess of \$150,000.

Work Health & Safety Management and Workplace Injury Management

Mid-Western Regional Council assigns a high priority to the continuous improvement of work health and safety and workplace injury management.

Council is responsible for:

Risk Assessments

A purchasing risk assessment (HRWHS 025) must be undertaken for all items/goods with regards to its potential use at the workplace. In undertaking the risk assessment the following factors are to be considered:

- Manner in which it is to be used and the suitability of the item for the purpose
- Hazards and risks presented by the item (including biological and chemical products) to be purchased
- Potential impact on affected personnel
- Transport, Maintenance, Cleaning and Storage
- Any associated needs (e.g. appropriate firefighting gear) should an emergency with the item occur
- Legal requirements such as codes of practice or relevant standards
- Specifications which are required to ensure safe operation or use
- Training requirements
- The need to change work procedures
- The need for personal protective equipment(PPE)
- Technical data or information required
- Opinions of the users of the item
- Hazards and risks associated with compounds used in operating, maintaining, cleaning, transporting and storage of the items
- Environmental impact of disposal of waste arising from the above

All risk assessments are to be documented in Council's record system and undertaken in consultation with employees/ workers who may be affected by the purchase. All records of assessments, and details provided by the service provider shall be maintained in a file by the originator of the purchasing request or the life of the equipment and updated when any modifications are carried out. Previous records of assessments are to be archived as appropriate.

Plant & Equipment

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In respect to the purchase of plant and equipment including furniture, the supplier will be requested to provide information regarding the hazards associated with the items and recommended controls to manage these hazards.

Suppliers of second-hand plant are specifically required to inform purchasers of any reasonably identifiable faults in the plant.

All plant and equipment must comply with all relevant Australian Standards.

Hazardous Substances

The Safety Data Sheets (SDS) and instructions for use for all hazardous substances must be obtained before the purchase of hazardous substances.

All substances must meet labelling and usage requirements of WHS legislation, standards and codes of practice. From January 2017 all suppliers must be compliant with Global Harmonisation System (GHS) for chemicals. This includes Pictogram Identification on all labels and documents

Any associated emergency control equipment including correct type of fire-fighting equipment and spill control is to be considered (re. Transport, use and storage) in the purchase of a hazardous substance.

Personal Protective Equipment [PPE]

Prior to purchasing PPE, consideration on whether other forms of hazard control from higher up the hierarchy of hazard control can be implemented needs to be taken into account.

All personal protective equipment must comply with relevant Australian Standards. Since PPE is personal, when purchasing the individual needs of staff MUST be considered. Such needs will include, but not be limited to, individual body size, impairments, capabilities etc.

All employees/workers – including managers – associated with PPE, require training in correct selection, fitting, use, maintenance and storage of the PPE

Pre - Purchase Trials

Trials of equipment and substances including PPE will be undertaken where reasonably practicable, providing an opportunity for monitoring by relevant personnel and management to ensure that no previously unforeseen hazards arise during use.

Trials should also ensure consultation where appropriate e.g. the introduction of new types or brands of PPE.

Feedback from the trial is to be recorded on the Purchasing Risk Assessment (HRWHS 025).

Making a Decision to Purchase

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If after the risk assessment, trials and/or the provision of information from the potential supplier, the level of risk associated with the item to be purchased cannot be controlled and is not acceptable, the item is not to be purchased. An alternate item is to be sourced and the process started again.

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WHS Standards for Procurement of Service Providers

HRWHS 059 Safety Management Framework is to be referred to prior to the commencement of the service provider procurement process.

This procedure provides a framework for the determination of the level of WHS risk associated with any service to be provided, along with guidelines for WHS documents to be provided as part of any RFT or RFQ.

Service Providers Responsibilities

Service providers shall have a demonstrated commitment to, acceptable performance with, and a systematic approach to work, health and safety management and workplace injury management.

Service providers, their employees and subcontractors must comply with work, health and safety, workers compensation insurance, injury management and rehabilitation obligations under legislation, relevant industry codes of practice, safety procedures in applicable industrial awards and approved agreements, and the general law.

If a service provider is deemed a regular or ~~high-risk~~ service provider by Council's WHS Coordinator, all employees of the service provider must undertake Council's Contractor Specific Induction Program. This induction does not replace ~~site-specific~~ inductions.

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Principal contractors are accountable for compliance by their service providers with their legal obligations regarding their employees.

All service providers, their employees, their unions and subcontractors must also comply with their workplace obligations, including the provisions of all applicable industrial awards and approved agreements.

Arrangements or practices designed to avoid workplace obligations under relevant laws, industrial awards and approved agreements are not permitted.

Local Preference

Mid-Western Regional Council acknowledges that it has an important role to play in the local economy and is committed to assisting local industry engage in business with Council. To assist local industry and local economic development, Council's Local Preference Policy supports our commitment to providing opportunities for our local service providers.

Full details of Council's Local Preference Policy can be found on Council's website.

Service Provider Management Policy

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The Service Provider Management policy aims to ensure Council's expectations and management of service providers (contractors) is legal, ethical and transparent for all parties. It is to provide guidance in the selection, management and monitoring of service providers engaged by Mid-Western Regional Council. The outcomes of this policy are: Clear & Defined Expectations & Responsibilities, Performance Management Criteria & Matrix, Protection of Supplier Rates and Ethical Behaviour & Fair dealing

Full details of Council's Service Provider Management Policy can be found on Council's website.

Variations of this policy

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.

Definitions

SOA - Standing Offer Arrangement

- An agreement where the Service Provider allows Council to purchase goods and services at a set price for a set period of time

PSA - Preferred Supplier Arrangement

- An agreement where the Service Provider allows Council to purchase goods and services at a set price for a set period of time, however, Council place suppliers in a preferred order. This particularly relates to Wet & Dry Plant Hire and also Trades lists (to name a few). Lists are tendered for and suppliers are numbered from 1 to say 5 during the evaluation process. In the first instance Council must contact the number 1 supplier and if unavailable contact number 2 on so on.

PQA - Pre-Qualified (Prequalification) Arrangement

- An agreement where Council create panels for regularly used goods or services, these may or may not be tendered for. Panels are created in VendorPanel (Councils' e-quoting portal) and Service Providers must meet Council's compliance requirements to be accepted. Prequalification panels allow Service Providers to nominate rates at time of quoting, any tendered rates are only used for tender evaluation, and therefore they may also be amended during the quoting process.
- This option allows Council to capture minimum compliance options for regularly used services providers as well as allowing service providers to present up to date pricing. The opportunity and potential for Council to obtain better value for money by creating a more competitive market is increased.

Prescribed Entity

- Any organisation that is specified in the Local Government (General) Regulation, Section 163 is recognised as a Prescribed Entity therefore approval is not required for acceptance of tenders sought from those specified.

VendorPanel

- Council's electronic quoting (e-quoting) portal

Council's VendorPanel Local Market Place

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- VendorPanel Marketplace is an e-quoting portal enabling Council employees to directly contact businesses that Council may not utilise regularly or require tenders for, but may employ from time to time.

Due Diligence

- Is an investigation of a business or person prior to signing a contract, or an act with a certain standard of care.

Public Advertising

Public advertising may include:

- Local and Sydney newspapers
- VendorPanel

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