



CUMBERLAND  
CITY COUNCIL

# DRAFT Procurement Policy

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-***
<b>Policy Owner</b>	Director Governance and Risk
<b>Date Adopted</b>	** ***** **
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## INTRODUCTION

This policy provides the guiding principles that underpin the framework for the procurement of goods and services to ensure Council obtains best value for money whilst achieving legislative compliance, transparency, and probity objectives.

## PURPOSE

The purpose of this Procurement Policy is to set out the strategic direction Council will take to deliver procurement outcomes ensuring the following:

- Best value for money
- Meeting the community needs
- Transparency and probity
- Economic, social and environmental sustainability
- Adherence to legislative requirements
- Effective risk management

## SCOPE

This policy applies to all procurement activities undertaken by Council and applies to all Council Officials.

## DEFINITIONS

Act	<b><i>Local Government Act 1993.</i></b>
<b>Corruption or corrupt conduct</b>	Dishonest activity in which a Council Officer, Councillor, volunteer, or service provider/services partner acts contrary to the interests of Council and abuses their position of trust in order to achieve some personal advantage or advantage for another person or organisation.  This can also involve corrupt conduct by Council, or a person purporting to act on behalf of and in the interests of Council, in order to secure some form of improper advantage for Council either directly or indirectly. Fraud is an example of corrupt conduct. Corrupt conduct is defined in the <i>Independent Commission Against Corruption Act 1998</i> .
<b>Council</b>	Cumberland City Council.
<b>Councillor</b>	Cumberland City Council elected representative.
<b>Council committee members</b>	A person other than a Councillor or Council Officer who is a member of a Council committee other than a wholly advisory committee, and a person other than a Councillor who is a member of Council's Audit, Risk and Improvement Committee (ARIC).
<b>Council Officer</b>	Cumberland City Council members of staff (including full-time, part-time, casual, and contracted staff).

<b>Council Official</b>	Councillors, Council Officers, Council committee members and delegates of Council.
<b>Fraud or fraudulent conduct</b>	<p>Dishonest activity causing actual or potential financial loss to Council including theft of monies or other property by Councillors, Council Officers, delegates of Council, Council committee members, volunteers, or service providers/services partners, and/or where deception is used at the time, immediately before or immediately following the activity.</p> <p>This also includes the deliberate falsification, concealment, destruction, or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit. Fraud is further defined in the <i>Crimes Act 1900</i> (NSW).</p>
<b>Modern Slavery</b>	<p>The term Modern Slavery refers to a number of offences, as set out succinctly by the Local Government Procurement organisation:</p> <ul style="list-style-type: none"> <li>• Slavery &amp; slavery like practices – this can include workers having to work long hours with very little pay and sometimes in very poor conditions, not being paid or not being paid a 'living wage'.</li> <li>• Forced labour – this includes any type of work people have been forced to do against their will or under threat of some form of punishment. This has occurred in Australia in the construction industry and usually affects migrants or people on working or bridging visas.</li> <li>• Child labour and child slavery – Child labour is terribly harmful for children and hinders their education and development. Child slavery occurs when a child is exploited for someone else's gain. Examples are child trafficking, child soldiers and child marriage.</li> <li>• Human trafficking – this can involve transporting and recruiting people for the purpose of exploitation, using violence, threats or coercion. This again has occurred in the construction industry in Australia.</li> <li>• Debt bondage – this is the world's most widespread form of slavery. It happens when people borrow money that they cannot repay and are forced to work to pay off the debt, losing control over the conditions of both their employment and the debt.</li> <li>• Servitude – the victim is significantly deprived of their personal freedom.</li> </ul>

## POLICY STATEMENT

The *Local Government Act 1993 (Act)* and the *Local Government (General) Regulation 2021 (Regulation)* provide the legislative framework for Council to procure goods and services. The Act requires Council to invite tenders for a contract with expenditure equal to or in excess of the tender threshold while the accompanying Regulation sets out the procedural requirements for the tender, including choice of tendering methods.

In any procurement activities, all Council staff must:

- Conduct themselves at all times in accordance with Council's Code of Conduct
- Maintain high standards of integrity, probity and professional conduct
- Disclose potential or actual conflicts of interest
- Ensure that actual and prospective suppliers/contractors are treated equitably, and the process is transparent at all times
- Aim to provide accurate information to suppliers/contractors
- Comply with this policy, relevant legislation and any related procedures

## PRINCIPLES

The purpose of this Policy is to ensure that Council's procurement processes are guided by the following principles.

### **Accountability and Transparency**

Council has an obligation to explain and account for the way decisions have been reached and duties performed as it is open to scrutiny. Council must ensure that during the procurement process, adequate recordkeeping is maintained to explain the decisions and actions that have been taken.

### **Fairness and Consistency**

Council must ensure consistency, so as to be fair and accurate at all stages of the procurement process ensuring all suppliers receive the same information. All requirements must be clearly specified within the documents and criteria for evaluation must be clearly indicated. The procurement process while encouraging a degree of competition in the market, must ensure that suppliers are treated equally. Council must not engage in practices that are anti-competitive or engage in collusive practices.

### **Value for Money**

Value for money is not necessarily selecting the proposal with the lowest price, nor the highest quality of goods or services. It is the most advantageous combination of cost, quality and sustainability to meet Council's requirements. The best way to satisfy the requirement of obtaining a most advantageous outcome for Council is to ensure that there is a strong element of competition in the allocation of orders or awarding of Contracts. Most advantageous outcome does not automatically mean the "lowest price". Most advantageous outcome is achieved when the submission satisfies all the essential criteria, specifications, WHS, environmental and statutory requirements stated in the Request for Tender/Quotation document.

## **Local Suppliers**

Council is committed to supporting local suppliers and will incorporate local economic impact as a consideration in procurement processes where feasible. This will be undertaken in a transparent, fair, and value-driven manner, ensuring adherence to the *Local Government Act 1993*, the NSW Office of Local Government Tendering Guidelines, and Council's Procurement Procedures and Governance Framework.

## **Social Procurement**

Council is committed to creating positive outcomes in the community and supporting a diverse range of suppliers. To encourage social procurement, Council will take the following steps:

- Preference local contractors and organisations that employ people with disabilities, indigenous contractors or people that come from disadvantaged communities.
- Consider sustainability and environment practices when engaging and contracting with contractors.

## **Modern Slavery**

Council is committed to ensuring its operations and supply chains do not cause, involve, or contribute to modern slavery and its suppliers, relevant stakeholders, and others with whom we do business respect and share our commitment regarding minimising the risk of modern slavery. Council is committed to combating modern slavery by identifying where our modern slavery risks are in our supply chain and managing those risks, engaging with our suppliers in relation to the requirements and including modern slavery clauses in RFx documents and Contracts.

## **RELATED LEGISLATION**

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*
- *Modern Slavery Act 2018 (Cth)*
- *State Records Act 1998*
- *Government Information (Public Access) Act 2009*
- *Public Interest Disclosures Act 2022*

## **RELATED DOCUMENTS AND COUNCIL POLICY**

- *Code of Conduct*
- *Community Strategic Plan*
- *Procurement Operational Procedure*
- *Fraud and Corruption Control Policy*
- *Fraud and Corruption Control Plan*
- *Public Interest Disclosures Policy*
- *Statement of Business Ethics*