



PROCUREMENT FRAMEWORK AND POLICY

BROKEN HILL

CITY COUNCIL

**AUSTRALIA'S FIRST
HERITAGE LISTED CITY**

QUALITY CONTROL

EDRMS REFERENCES	D20/21089 – 11/665	
KEY DIRECTION	Our Leadership	
OBJECTIVE	Openness and transparency in decision making	
FUNCTION	Finance	
STRATEGY	Support the organisation to operate in its legal framework	
RESPONSIBLE OFFICER	Chief Financial Officer	
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COMPANY	Broken Hill City Council	
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ASSOCIATED LEGISLATION	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> • <i>Local Government (General) Regulations 2005</i> 	
ASSOCIATED COUNCIL DOCUMENTS	<ul style="list-style-type: none"> • Code of Conduct • Statement of Business Ethics 	

TABLE OF CONTENTS

1. POLICY STATEMENT	6
1.1 Purpose	6
1.2 Policy Objectives	6
1.3 Policy Scope	6
1.4 Legal and Policy Framework	7
2. DEFINITIONS	7
3. PROCEDURE AND GUIDANCE NOTES	9
3.1 Requirement	9
3.2 Conduct of Councillors and Council staff	9
3.3 Tender Processes	10
3.4 Influencing the Tender Process	10
3.5 Conflict of Interest	10
3.6 Fair and Honest Dealing	11
3.7 Accountability and Transparency	11
3.8 Gifts and Benefits	11
3.9 Disclosure of Information	11
3.10 Governance Structure	12
3.11 Methods of Purchasing	12
3.12 Responsible Financial Management	13
4. PROCUREMENT THRESHOLDS AND COMPETITION REQUIREMENT	14
4.1 Minimum Spend Competition Thresholds (Inclusive of GST)	14
4.2 Threshold Margin	14
4.3 Payments	14
4.3.1 Prepayments	14
4.4 Use of Agents	15
4.5 Total Cumulative spend	15
4.6 Approved Suppliers (Panel)	15
5. DETERMINING THE PROCUREMENT TYPE	16
5.1 Tender	16
5.2 Expression of Interest	16
5.3 Quotations	16
5.3.1 Goods and Services under \$500	16
5.3.2 Goods and Services Between \$501 - \$2,000	16
5.3.3 Goods and Services Between \$2,001 - \$22,000	17
5.3.4 Goods and Services Between \$22,001 - \$150,000	17
5.3.5 Goods and Services Between \$150,001 - \$250,000	18
5.4 Insufficient Quotations	18

6.	TENDER EVALUATION	19
6.1	Evaluation Criteria	19
6.1.1	Work Health and Safety (WHS)	19
6.2	Evaluation Process	20
6.3	Non-Conforming Tenders	20
6.4	Acceptance of Tenders:	21
6.5	Delegation of Authority Requirement	21
6.6	Delegations Reserved for the Council	21
6.6.1	Council Staff	21
6.6.2	Delegations Reserved for the Council	21
6.7	Internal Controls	22
6.8	Commercial Information	22
7.	TENDER/CONTRACT MANAGEMENT	22
7.1	Risk Management	22
7.2	Health and Safety	22
7.3	Supply by Contract	22
7.4	Contract Terms	22
7.5	Endorsement	23
7.6	Dispute Resolution	23
7.7	Contract Management	23
7.8	Variances	23
8.	DEMONSTRATE SUSTAINED VALUE, INTEGRATION WITH COUNCIL STRATEGY	23
8.1	Achieving Best Value for Money	23
8.2	Approach	23
9.	ROLE OF SPECIFICATIONS	24
10.	PERFORMANCE MEASURE AND CONTINUOUS IMPROVEMENT	24
11.	SUSTAINABILITY	24
11.1	Sustainable Procurement Objectives	25
12.	SUPPORT OF LOCAL BUSINESS	25
12.1	Purchases over \$250,000	25
13.	SOCIAL PROCUREMENT	25
14.	INDIGENOUS PROCUREMENT	26
14.1	Objectives	26
15.	DIVERSITY	26
16.	APPLY A CONSISTENT AND STANDARD APPROACH	26
17.	STANDARD PROCESSES	26
18.	PERFORMANCE INDICATORS	27
19.	MANAGEMENT INFORMATION	27
20.	BUILD AND MAINTAIN SUPPLY RELATIONSHIPS	27
20.1	Developing and Managing Suppliers	27

20.2	Supply Market Development	28
20.3	Relationship Management	28
20.4	Communication	28
21.	CONTINUAL IMPROVEMENT	28
22.	COMPLIANCE RESPONSIBILITIES.....	28
23.	ASSOCIATED DOCUMENTS	28

1. POLICY STATEMENT

1.1 Purpose

Broken Hill City Council (Council) recognises that a procurement strategy and appropriate best practice contract and procurement principles, policies, processes and procedures, will enhance achievement of Council objectives such as promoting economic, social and environmental responsible procurement, Indigenous procurement, value for money, achieving innovation and providing best value services to the community.

1.2 Policy Objectives

The objective of this policy and associated procedures is to detail standard procurement practices across Council and to highlight the obligations of Council officers with the delegated authority to arrange goods and services of any value or type on behalf of Council.

This policy and underlying procedures set the ethical ground rules and requirements outlined in the *Local Government Act 1993* and *Local Government (General) Regulations 2005* for all business dealings between Council and our business partners.

Furthermore, the procurement policy is based on the underlying principles of Councils' Code of Conduct and Statement of Business Ethics.

This policy outlines the guiding principles for Council in its procurement function including purchasing, purchase cards, tendering, contract management, payments and asset disposal relating to the acquisition and use of goods and services and to assist in:

- Ensuring best value for money and cost effectiveness
- Meeting the needs of the community
- Ensuring integrity, transparency and probity
- Promoting economic, social and environmental sustainability
- Promoting good management practices

The procurement function is high risk in terms of corruption and therefore it is subject to tight rules and processes. Successful procurement provides great opportunities to use the community's money wisely in a sustainable way.

1.3 Policy Scope

All staff are accountable for applying this policy within their areas of responsibility. Specific responsibilities are as follows:

- The General Manager has ultimate responsibility for procurement and delegated authority of expenditure of funds across Council;
- The Chief Financial Officer and Manager Finance are responsible for the development of all policies and procedures in relation to procurement across Council;
- Managers of each division are accountable for the implementation, maintenance and the management of any breach of policy within their areas of responsibility in accordance with this policy and related procedures;
- Each member of staff is responsible for ensuring that they fulfil their obligations in relation to this policy, procedures and Code of Conduct when spending public funds.

1.4 Legal and Policy Framework

This policy considers recommendations from the Independent Commission Against Corruption (ICAC), Section 55 of the *Local Government Act 1993* (NSW), Part 7 of the *Local Government (General) Regulation 2005* (NSW), Councils Code of Conduct and Statement of Business Ethics.

Ethics and Conflicts of Interest – Council Officers and Councillors shall refrain from personal activities that would conflict with proper execution and management of Council Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

2. DEFINITIONS

Term	Meaning
<i>Act (The)</i>	<i>Local Government Act 1993</i> (as amended).
<i>Commercial in Confidence</i>	Information that, if released, may prejudice the business dealings of a party e.g. discounts, rebates, profits, methodologies and process information. It is information provided for a specific purpose that is not to be used for any other purpose than set out in the initial document.
<i>Conflict of Interest</i>	In New South Wales local government, the law provides that a staff member holding a delegation or advising council or a special committee has a conflict of interest which they must disclose in writing when they have a personal or private interest of the type specified in the legislation.
<i>Contract</i>	An agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act/s that is enforceable in law. A contract may be verbal or written or inferred by conduct.
<i>Contract Documents</i>	Documents construed together as an instrument of contract. They may include terms and conditions, specifications, drawings, tender responses, delivery schedules and payment schedules
<i>Contract Management</i>	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and to provide value for money.
<i>Contractor</i>	Respondent (person, firm etc.) whose tender/quotation offer has been accepted by the council with or without modification.
<i>Council Staff</i>	Includes full time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.
<i>CSR Practices</i>	Corporate Social Responsibility. Relates to Council's supply chain being ethical, knowledgeable, reputable and where possible supporting green and sustainable products.
<i>Emergency</i>	<ul style="list-style-type: none">Any urgent circumstance which may present a risk to public health and/or safety.The failure of a 'key service provider'.Significant damage to municipal building (where it is no longer safe).Major business disruptions such as an extensive IT failure resulting in a loss of services to the community.

Term	Meaning
<i>Evaluation Criteria</i>	The criteria used to evaluate the compliance and/or relative ranking of tender responses. All evaluation criteria must be clearly stated in the request documentation.
<i>Expression of Interest</i>	A response to an open approach, usually by public advertisement, to the market requesting submissions from prospective suppliers interested in procurement. The list of potential suppliers who have provided expressions of interest may be used as the basis for conducting a select tender process
<i>Late Tender</i>	A late tender is one that it is not received in the Tender Box prior to the advertised closing date/time.
<i>Local Content</i>	Defined as labour, materials, plant and supervision which are sourced from within the local Broken Hill area.
<i>Prepayment</i>	A payment made for goods/services prior to any works being undertaken.
<i>Probity</i>	A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
<i>Procurement</i>	Procurement is the whole process of acquisition of goods, services and works. It can include planning, design, standards determination, specification writing, preparation of quotation and tender documentation, selection of suppliers, financing, contract administration, disposals and other related functions. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
<i>Specification</i>	The statement which clearly and accurately describes the essential requirements for goods, services or works. It may also include the procedures by which it will be determined that the requirements have been met and performance required in a contract.
<i>Standing Offer Agreement</i>	A contract that sets out rates for goods and services that are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
<i>Sustainability</i>	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
<i>Tender</i>	An offer in writing to supply goods and/or services, usually submitted in response to a public or selective invitation such as a Request for Tender.
<i>Tender Opening Panel</i>	Will consist of three Council officers, ideally one of which should be a Senior Manager.
<i>Tender Process</i>	The process of inviting parties to submit a quotation or tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
<i>Treatment of GST</i>	All monetary values stated in this policy include GST; unless specifically stated otherwise.

Term	Meaning
<i>Value for Money</i>	Value for Money in Procurement is about selecting the supply of goods, services and works taking into account both cost and non- cost factors including: <ul style="list-style-type: none"> • contribution to the advancement of the Council's priorities; • non-cost factors such as fitness for purpose, quality, service and support; and cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
<i>Variance</i>	Is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of work.

3. PROCEDURE AND GUIDANCE NOTES

Effective Legislative and Policy Compliance and Control - Ethics and Probity.

3.1 Requirement

This Policy represents the principles, processes and procedures that will be applied to the purchase of all goods, service and works by council. The scope of this Policy commences from when council has identified a need for procurement requirements. It continues through to the delivery of goods or completion of works or services.

This Policy will apply to Councillors, council staff and all persons undertaking procurement on council's behalf and they are accountable for complying with all relevant procurement legislative and policy requirements.

3.2 Conduct of Councillors and Council staff

Councillors and members of staff (and all persons engaged in procurement on Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny.

All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.

In procurement matters:

- Treat potential and existing suppliers with equality and fairness;
- Maintain confidentiality of Commercial in Confidence matters and information such as contract prices and other sensitive information;
- Members of staff must disclose a direct or indirect interest (and the type of interest) before providing advice or reports (or any other matter).
- Council officers delegated Council powers or duties are prohibited from exercising those powers, duties or functions if they have conflicts of interest.
- A Councillor must comply with the Primary Principles of Councillor Conduct and avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations. Councillors (and members of audit committees) must disclose a conflict of interest.
- Councillors must also comply with the Code of Conduct.
- Councillors must not improperly direct or improperly influence a member of council staff in the exercise of any power on/ in the performance of any duty or function.

- Members of staff must also comply with the Code of Conduct.
- All staff engaged in the evaluation of quotation or tender evaluations must adhere to this Policy and complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality.
- All Councillors and Staff must adhere to councils Gifts and Benefits Policy in matters of procurement.
- Councillors and staff members should make their interests known in any situation where it could be perceived that an interest might unduly influence them.

3.3 Tender Processes

All tender processes shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

3.4 Influencing the Tender Process

Any attempts which may be reasonably construed as intended to influence the tender process in any way such as any direct or indirect approach by tenderers themselves or through other parties on their behalf to persons other than those nominated in the tender document will invalidate the tender.

For the avoidance of doubt any Tenderer found to have:

- a) Offered a bribe, gratuity, bonus, discount of any sort or enticement to or otherwise attempt to influence any Council officer, Councillor or any persons who are either directly or indirectly involved in the evaluation of the Tender or in the awarding of an associated Contract; or
- b) Approached, discussed or solicited support for their Tender with any Council officer (with the exception of the designated Council Contact Officer) or Councillor of the Council, individually or collectively; at any time prior to the awarding of the Contract to the successful Tenderer will have their Tender excluded from the contract award process.

The tender of any tenderer which engages in conduct prohibited under this clause will be deemed informal and will be rejected without further consideration.

Tenderers shall declare any actual or potential conflict of interest.

Tenderers shall not participate in collusive tendering practices or any other anti-competitive practices with any other Tenderer. Council shall act where it becomes aware of collusive practices. Collusive practices are anti-competitive in nature and can result in criminal prosecution.

The above clause will be included in the Conditions of Tender.

3.5 Conflict of Interest

Where a Council officer is involved in procurement activity, whether it be on a daily basis, or as part of a tender evaluation panel, or as the person actually responsible for inviting tenders, he/she are obliged to declare any interest or bias he/she may have in regard to a particular supplier. (Refer to the Conflict of Interest Policy).

This conflict of interest could range from a pecuniary interest, to a personal interest such as a family member being involved in that business. The individual is obliged to declare this interest at the outset of the process to avoid any supplier being treated in any way other than fairly and without bias.

It is of paramount importance to Broken Hill City Council that all suppliers be treated in an equitable manner and that all dealings are transparent and can withstand public scrutiny.

3.6 Fair and Honest Dealing

During a public tender process, all prospective contractors and suppliers must be afforded an equal opportunity to tender or quote. Impartiality must be maintained throughout the procurement process so that it can withstand public scrutiny.

The commercial interests of existing and potential suppliers must be protected.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

3.7 Accountability and Transparency

Accountability in procurement means being able to explain and evidence what has happened. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Therefore, the processes by which all procurement activities are conducted will be in accordance with the Council's procurement policies and procedures as set out in this policy and related Council policies and procedures.

Additionally:

- The responsible Council staff must be able to account for all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- Where necessary, brief tenderers regarding the documented decision-making process, and
- All procurement activities are to leave an audit trail for monitoring and reporting purposes.

3.8 Gifts and Benefits

No Councillor or member of Council staff shall, either directly or indirectly, solicit or accept gifts or presents from any member of the public who is involved, either directly or indirectly, with any matter that is connected with the duties of the officer, or in which Council is interested.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives, or from organisations, firms or individuals with whom they have official dealings.

Councillors and Council staff should also avoid the ambiguous situation created by visiting the premises of a contractor, organisation, firm or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how insubstantial the evidence available), must be promptly brought to the attention of the General Manager.

As a general rule it is better to refuse any gifts or benefits offered to you. Circumstances may arise where refusal may be difficult or inappropriate. If you accept a gift or benefit, it should be of a token nature and must be itemised in Council's Gift & Benefit Register. For further information please refer to Council's Gifts & Benefits Policy.

3.9 Disclosure of Information

Information received by Council that is Commercial in Confidence must not be disclosed and is to be stored in a secure location. Councillors and Council staff are to protect, by refusing to release or discuss information to the extent that it is Commercial in Confidence.

This may include:

- Information disclosed by organisations in tenders, quotation or during tender negotiations,
- Pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations,
- Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests,
- Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier,
- At no stage should any discussion be entered into with any tendering party or its representative or agent that could have potential contractual implications prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

3.10 Governance Structure

Council shall:

- Establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by Council.
- Ensure that Council's procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council.
- Ensures that prospective contractors and suppliers are afforded an appropriate opportunity to tender/quote;
- Encourages competition; and
- Ensures that policies that impinge on the purchasing policies and practices are communicated and implemented.

3.11 Methods of Purchasing

Council's standard methods for purchasing goods, services and works shall be by:

- Credit/Debit Card
- Petty Cash
- Purchase order following a quotation process;
- Under contract following a tender process; or
- Where Council is satisfied that Value for Money requirements have been satisfied, under purchasing schemes including collaborative purchasing arrangements with other Councils and commercial schemes such as provided by NSW Procurement and Local Government Procurement;
- Unless other arrangements otherwise authorised by Council or the General Manager on a needs basis as required by abnormal circumstances such as emergencies.
- No person is permitted to purchase an item in excess of their delegation limit under any circumstance. Any occurrence of this will be considered a breach of policy and appropriate action taken for a breach of policy. If an item is in excess of your delegation limit it will be necessary for your direct manager to purchase the goods or services;
- Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders. Typically, a multi-stage tender process will commence with a registration of interest stage followed by a tender process involving the organisations selected as a consequence of the registration of interest stage.

A Council Executive Leadership Team Member may determine to seek an **Expressions of interest** where:

- there is likely to be many tenderers and tendering will be costly or the procurement is complex; and council does not wish to impose the costs of preparing full tenders on all tenderers
- there is uncertainty as to the willingness and/or interest of parties or vendors to offer the potential products or services or to undertake the proposed works
- The requirement is complex, difficult to define, unknown or unclear
- The requirement is capable of several technical solutions
- The requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

An **Expression of Interest** process can be undertaken where determined by the General Manager or an Executive Leadership Team Member and where Council advertises publicly:

- the purpose and nature of the contract
- the date by which it will invite tenders.

Tenders and Expression of Interests should not be used to compensate for a lack of understanding as to a council's needs. If uncertain what is required; a simple **Request for Information** should be undertaken. A Request for Information may be undertaken for reasons which include establishing:

- the availability of technologies, products or service available in the marketplace to meet council needs.
- whether proposed terms and conditions or deliverable expectations are acceptable in the marketplace.
- whether proposed budgets are adequate to meet non-standard procurement needs inadequate budgets should not become apparent when tenders are opened.

A Request for Information should be used rather than a Request for Tender or Expression of Interest in order to improve understanding of needs, availability and likely costs.

A Request for Information will be undertaken similar to an Expression of Interest and advertised accordingly. Care must be taken when writing a specification for a Request for Information to ensure there is no commitment to purchase inadvertently included.

3.12 Responsible Financial Management

The principle of responsible financial management must be applied to all procurement activities. Accordingly, to give effect to this principle: the availability of existing funds within an approved budget, or source of funds, must be established prior to the commencement of any procurement action for the supply of goods, services or works.

Council staff must not authorise the expenditure of funds in excess of their financial delegation. Council staff that breach their delegated authority may face action under Council's Code of Conduct Policy (the decision to initiate disciplinary action or other action will be taken by the General Manager based on a recommendation by the Chief Financial Officer following consultation with the relevant Executive Manager).

Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

4. PROCUREMENT THRESHOLDS AND COMPETITION REQUIREMENT

Council will from time to time decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be dependent on the size and complexity of the proposed procurement activities.

4.1 Minimum Spend Competition Thresholds (Inclusive of GST)

Financial Thresholds (AU\$ inc GST)	Requirements			
	Process Managed by	Market Engagement	Agreement Type	Documentation
< \$500	Business Unit	1 Verbal Quote	Purchase Order or Purchase Card	Quote details to be documented in Civica
\$501-\$2,000		2 Verbal Quotes		Quote details to be documented
\$2,001 to \$22,000		2 Written Quotes		Quotes must be registered in Civica
\$22,001 to \$150,000		3 Written Quotes or Request for Quotation		Evaluation Report
\$150,001 - \$250,000	Finance	Request for Quotation or Tender	Contract	Evaluation Report
> \$250,00 for goods & services and capital works		Tender	Contract	Evaluation Report

4.2 Threshold Margin

If a procurement budget is within 5% of the nearest threshold, then the greater threshold requirements must be adhered to.

4.3 Payments

Payment for Works or Services will be made by the Principal on submission of Tax invoices by the Contractor in accordance with Council's payment policies.

Payment of all claims shall be subject to approval by the Principal's Authorised Officer that requested the works. All invoices shall be submitted in accordance with the Schedule of Rates forming part of the contract and Council's payment terms and conditions.

4.3.1 Prepayments

Prepayments for any goods, services or works cannot be made without the prior approval of the Chief Financial Officer or the General Manager.

4.4 Use of Agents

Council encourages (when available) the services of a third-party agent such as Local Government Procurement or Public Works Advisory (PWA) to undertake the Tender process on behalf of Council where it can be shown that Best Value for Money would be achieved.

The Act allows for Councils to form groups for the procurement of goods, services or works with one member of the group, acting as an agent for the other councils, undertaking a single competitive process. Each of the members of this group are able to enter into a contract with the preferred service provider identified through this competitive process.

Council encourages group tenders with surrounding Councils and Joint Organisations, particularly where it can be shown that Best Value for Money would be attained.

When procurement is being planned, due diligence should be undertaken to evaluate if Best Value for Money can be achieved by using an Agent or a collective group tender.

The Finance Team is to be notified when a third-party agent is appointed.

4.5 Total Cumulative spend

Care should be taken when reviewing the limits at 8.1 (above). In order to comply with the requirements of the Act where significant sums are spent in aggregate with one supplier or on one service, it is necessary to structure procurement proposals (as requests for tenders, quotations or prices) in order to achieve greatest value and supplier performance by leveraging this cumulative spend, rather than treating each discrete arrangement as a separate procurement exercise. Council has determined that the cumulative expenditure to a supplier or for a specific product/service for a period of up to one year is to be taken into account unless the exemption is approved by the General Manager or Chief Financial Officer.

Should the General Manager consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the council, public tenders may be called for purchase of goods, services and works for which the estimated expenditure is below the thresholds set under this Policy.

4.6 Approved Suppliers (Panel)

An Approved Supplier is a contractor/company that has been appointed following an open Tender process. Approved Suppliers cannot be appointed in any other manner. Unless specified during a tender process no minimum quantity of sales or turnover is guaranteed to an Approved Supplier Panel member.

Benefits of appointing a Panel of Approved Suppliers may include:

- Savings in time and money
- Provide higher level of quality
- Faster turnaround times
- Increased confidentiality

Council's Approved Suppliers should always be utilised whenever possible. This includes utilising the approved suppliers listed with Local Government Procurement.

If an Approved Supplier has provided a Schedule of Rates for services during the Tender process, there is no requirement to obtain three quotes; a direct appointment can be made.

If a Schedule of Rates was not provided the quoting requirements outlined in Clause 7.1 must be adhered to. Any single purchase greater than the Legislated limits must go to Tender.

5. DETERMINING THE PROCUREMENT TYPE

5.1 Tender

For contracts in excess of \$250,000 (Including GST), either formal tenders are to be invited by public advertisement in accordance with Section 55 of the *Local Government Act 1993* (Act) and the Local Government (General) Regulation 2005 or accessing an existing contract with a prescribed organisation as per the Act. For advice on accessing these contracts contact Finance staff. Please refer to the separate Tendering Document Suite.

5.2 Expression of Interest

An expression of interest is a two-step process. When the thresholds are met an Expression of Interest process does not replace the need to call tenders. It simply precedes the calling of tenders and generally seeks to constrain the number of, and focus the quality and detail, of tenders received. An Expression of Interest process is generally structured with the following components:

- overview of requirements
- invitation to submit
- criteria for evaluating
- form of (respondents form)

An expression of interest should be used in circumstances where:

- there is likely to be many tenderers, tendering will be costly, or the procurement is complex.
- there is uncertainty as to the interest of suppliers or vendors to offer the potential products or services or to undertake the proposed work.

5.3 Quotations

Purchase of goods and services up to \$200,000 for works in a single contract or supply arrangement may be undertaken using the procurement by quotation method as described below. Payment for these purchases to your delegated financial limit may either be by Purchase Card or through Accounts Payable (A purchase order must be raised if using Accounts Payable).

5.3.1 Goods and Services under \$500

These may be through the use of credit/ procurement card or purchase order.

Under no circumstances are purchases/orders to be split so that the total value of the order falls under the amount of the individual's authority level or so that the value falls under the amount for required quotes.

Purchases can only be authorised by an officer with the appropriate delegation/spend limit.

5.3.2 Goods and Services Between \$501 - \$2,000

At least two documented telephone quotations are to be obtained. This verbal quotation is to be recorded on the requisition with the supplier's name, contact details and prices.

Under no circumstances are purchases/orders to be split so that the total value of the order falls under the amount of the individual's authority level or so that the value falls under the amount for required quotes.

If a contract already exists for the goods or services in question, then it is at Council's discretion whether it wishes to tender separately or use an existing contract.

For advice on accessing these contracts contact Finance staff.

5.3.3 Goods and Services Between \$2,001 - \$22,000

At least two written quotations are to be obtained. Written quotations are to be attached to the requisition with the supplier's name, contact details and prices.

Under no circumstances are purchases/orders to be split so that the total value of the order falls under the amount of the individual's authority level or so that the value falls under the amount for required quotes.

If a contract already exists for the goods or services in question, then it is at Council's discretion whether it wishes to tender separately or use an existing contract.

For advice on accessing these contracts contact Finance staff.

5.3.4 Goods and Services Between \$22,001 - \$150,000

There are a number of options open to Council staff for goods and services of this value. Staff can either choose to advertise a Tender or Request for Quotations (RFQ) for the relevant goods and services following the guidelines listed in the previous clause 'Goods and Services between \$150,001 - \$250,000' or obtain at least three written quotations and the most advantageous to Council shall be selected.

Under no circumstances are purchases/orders to be split so that the total value of the order falls under the amount of the individual's authority level or so that the value falls under the amount for required quotes and following requirements:

- Detailed specifications and 'Requests for Written Quotation' are to be provided to the suppliers providing quotations.
- Documentation must be retained on file regarding the process undertaken to source the successful supplier.
- Unsuccessful bidders will be notified in writing.
- If for some reason three written quotes cannot be obtained, the reasons are to be documented and referred back to the appropriate manager.
- Upon opening quotations, a schedule of responses will be prepared and forwarded to the appropriate officer or Committee for evaluation.
- The appropriate Officer or committee will review all quotations and if not accepting the lowest priced bid, then the reasons must be documented and forwarded to the appropriate manager for acceptance and sign off.
- The Manager may accept or reject this recommendation. If rejected, then the entire process is to recommence. If the Manager decides to accept another supplier not recommended, then full justification for this decision must be documented.

If a contract already exists for the goods or services in question, then it is at Council's discretion whether it wishes to tender separately or use an existing contract.

For advice on accessing these contracts contact the Finance Staff.

5.3.5 Goods and Services Between \$150,001 - \$250,000

All contracts above \$100,000 must be referred to the Chief Financial Officer before a purchase order is generated.

For contracts between \$150,001 - \$250,000, either a formal tender or Request for Quote (RFQ) is to be invited by public advertisement in accordance with Council's Tendering documents. Such tenders may be submitted to Council, together with a recommendation from the Council Officer, or Evaluating Panel calling tenders, or authorised and signed by the Chief Financial Officer or General Manager.

Circumstances may arise where due to extenuating circumstances an advantageous result would not be achieved by advertising a tender or RFQ. As a minimum, three formal written quotations will be required. If for some reason three written quotes cannot be obtained, the reasons are to be documented and referred back to the appropriate Manager. Such contracts must be authorised and signed by the appropriate delegated Manager.

Under no circumstances are purchases/orders to be split so that the total value of the order falls under the amount of the individual's authority level or so that the value falls under the amount for required quotes as follows:

- Detailed specifications and 'Requests for Written Quotation' are to be provided to the suppliers providing quotations.
- Documentation must be retained on file regarding the process undertaken to source the successful supplier.
- Unsuccessful bidders will be notified in writing.
- Upon opening quotations, a schedule of responses will be prepared and forwarded to the appropriate officer or panel for evaluation.
- The lowest price bid is not necessarily the best value for money and is not guaranteed to be the successful bidder. All quotations and tenders will be assessed on multiple criteria to ensure value for money is achieved.
- The manager may accept or reject this recommendation. If rejected, then the entire process is to recommence. If the manager decides to accept another supplier not recommended, then full justification for this decision must be documented and recorded.

If a contract already exists for the goods or services in question, then it is at Council's discretion whether it wishes to tender separately or use an existing contract.

For advice on accessing these contracts contact the Finance Staff.

5.4 Insufficient Quotations

The situation may arise where insufficient quotations are received to satisfy the above requirements. This may occasionally occur where there are few suppliers for the goods, services or works being sought. In this case, the details of the contacted suppliers must be recorded in Council Electronic Record Management System and CIVICA with a recommendation and an appropriate comment recorded.

There may be occasions when only one quotation may be received. Such occasions would require written approval of the General Manager or the Chief Financial Officer, and would generally be considered under the following circumstances:

- In the event of emergency works for safety reasons

- When there is only one known and reputable supplier.

6. TENDER EVALUATION

- Late tenders will not be accepted under any circumstances. However, If an electronic tender submission has been commenced using Vendorpanel prior to the closing date/time, and the transmission is interrupted due to tender closing time; and the commencement of submission transfer can be verified by Vendorpanel the submission will be deemed to be received.
- A Tender evaluation panel will be established to evaluate each tender against the selection criteria and its composition will be determined by the Executive Leadership Team Member.
- Evaluation Panel must have a minimum of three members (minimum two Council staff) and may include external consultants who are specialist in the area.
- Evaluation Panel must have an independent (non-scoring) member as appointed by the Finance Team.
- The evaluation process must be robust, systematic and unbiased.
- Once a preferred tenderer is selected negotiations may be conducted in order to obtain the optimal solution and commercial arrangements, providing they remain within the intent and scope of the tender. Such negotiations must be exhausted with one tenderer before beginning with another tenderer.
- Tender evaluation panels will produce a written report of their evaluation using the appropriate prescribed template.
- Tender Evaluation must be updated in Councils Electronic Record Management System and Contract Register.

6.1 Evaluation Criteria

To ensure the Best Value for Money outcome is achieved for Council; the Evaluation Criteria is based on individual project/procurement priorities and must be included in the Request for Tender documentation.

The following Mandatory Evaluation Criteria must be included in all tender evaluations and for transparency reasons, must also be clearly identified in the Request for Tender documents:

Mandatory Criteria	Weight
Price	40%
Level of Local Content provided or likely to be provided in the event the Applicant is successful in the Tender.	10%
The financial viability of the Applicant to ensure the completion of the delivery of the goods and services applicable to the Tender. Financial assessment is to be undertaken by an independent organisation appointed by Council.	Pass/Fail
Workplace Health and Safety (WHS) management including verified documentation of Safety Performance.	Pass/Fail

6.1.1 Work Health and Safety (WHS)

WHS is a mandatory evaluation criterion with a pass/fail weighting. The determination if a company meets the required standard is determined by the responses provided by the contractor from the information provided in the returned WH&S Schedule.

In addition to the above Mandatory Criteria (50%) the Discretionary Criteria (50%) which is project specific must also be included in the Request for Tender documents. Evaluation Criteria must be justifiable and quantifiable.

6.2 Evaluation Process

1. Evaluation Panel to review WHS Schedule to ensure conforming. If not conforming the submission will be considered to fail the mandatory requirements and will not be evaluated further.
2. Evaluation Panel to review all submissions received and rate each submission based on the Mandatory (Price and Local Content) and Project Specific criteria.
3. Tender and Contract Management System to be updated with Evaluation scores.
4. Top two (2) submissions from previous step to have Financial Assessment undertaken – contact Finance Team to organise.
5. Result of Financial Assessment will be reviewed by Finance Team and will be classified as either Pass or Fail
 - a. A pass indicates that the Financial Assessment has shown the financial ability of the applicant to provide goods/services.
 - b. A fail indicates that the Financial Assessment has shown the inability of the applicant to provide goods/services.
6. Dependent on the outcome of the Financial Assessment the Evaluation Panel will either finalise the evaluation process and proceed with relevant reporting, or, if the Financial Assessment fails for the tested applicants; readdress the evaluation process.
7. Financial Assessment should be completed prior to Recommendation being submitted to Council. If not, recommendation will be “subject to positive Financial Assessment”.
8. Due to the confidentiality of the Financial Assessment the documents will be held by the Finance Team electronically and not distributed.

For projects where the same applicants submit and are awarded contracts; the Financial Assessment process would only need to be undertaken on an annual basis. An example of this would be road works/Infrastructure.

6.3 Non-Conforming Tenders

All tender submissions on receipt will be reviewed by the “Tender Opening Panel” to ensure that required schedules have been submitted.

A tender submission will be deemed non-conforming if:

1. Required schedules have not been included or incomplete.
2. Submission has not met specification requirements.

A tender submission may be deemed as non-conforming during the Evaluation process, the evaluation panel should quarantine the submission and advise the Finance Team, for further review/confirmation.

Council may sometimes receive tenders which offer one or more alternatives where these were not sought in the tender documentation. Council should always be open to innovative proposals as they may offer excellent opportunities for improvements and are consistent with

the legislative objectives for councils to achieve continual improvement. Tender documentation where innovative solutions are sought should specifically invite non-conforming tenders which council can consider along with all other tenders.

A Tenderer submitting a non-conforming tender shall fully detail the extent of any variance from the tender documents in tender Schedule headed "Statement of Conformance". If the "Statement of Conformance" is not correctly completed the tender may not be further considered.

6.4 Acceptance of Tenders:

The chairperson of the evaluation panel will:

- maintain detailed records of all commercial-in-confidence negotiations, if any occur
- obtain approval for public tenders according to the below Delegation of Authority Requirements

6.5 Delegation of Authority Requirement

Delegations define the limitations within which Council staff are permitted to work. Delegation of financial authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Financial delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level. As such, Council has delegated responsibilities as detailed below relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for contract management activities.

6.6 Delegations Reserved for the Council

6.6.1 Council Staff

Council shall maintain a documented scheme of financial delegations, identifying the Council staff authorised to make such financial commitments in respect of goods, services and works on behalf of Council and their respective delegations contained in financial delegation's policies:

- Acceptance of tenders;
- Acceptance of quotes;
- Contract term extensions (within authorised budget);
- Contract amendment (financial and non-financial);
- Appointment to register of pre-qualified suppliers or supplier agreements;
- Purchase Card purchases; and
- Procedural exceptions.

6.6.2 Delegations Reserved for the Council

Commitments and processes which exceed the General Manager's delegation, and which must be approved by Council are:

- Signing and sealing of contract documents; and
- Tender recommendations and Contract approval for all expenditure over \$250,000 for goods and services and capital works in value.

6.7 Internal Controls

Council will install and maintain a framework of internal controls over procurement processes that will ensure:

- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Systems are in place for appropriate monitoring and performance measurement.
- All persons engaged in procurement processes must diligently apply all internal controls.

6.8 Commercial Information

Procurement activities will be carried out in a way that supports Council staff in meeting their obligations to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council guidelines.

7. TENDER/CONTRACT MANAGEMENT

7.1 Risk Management

All suppliers, where applicable, must comply with current Environmental, Work Health and Safety and Workers' Compensation legislative requirements and regulations and shall affect and maintain appropriate insurance policies. For further information please refer to Council's Risk Management Policy.

7.2 Health and Safety

To ensure the health and safety of our workers and visitors, procurement will be undertaken in accordance with requirements set out in Broken Hill City Council's Health and Safety Management System and approved policies.

7.3 Supply by Contract

The provision of goods, services and works by contract, potentially exposes the Council to risk. Council will minimise its risk exposure by measures such as:

- Standardising contracts to include current, relevant clauses;
- Requiring Bank Guarantees or Security Deposits where appropriate;
- Referring specifications to relevant experts;
- Requiring contractual agreement before allowing the commencement of work;
- Use of or reference to relevant Australian Standards (or equivalent); and
- Effectively managing the contract including monitoring and enforcing performance.

7.4 Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be sought from the Chief Financial Officer. A request for such an approval should be supported with procurement and legal advice as relevant.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose Council to risk and thus must be authorised by the appropriate member of Council staff listed in the delegation's section above.

7.5 Endorsement

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to the Executive Leadership Team.

7.6 Dispute Resolution

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action.

7.7 Contract Management

The purpose of contract management is to ensure that Council, and where applicable its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

- Establishing a system reinforcing the performance of both parties' responsibilities and obligations under the contract; and
- Providing a means for the early recognition of issues and performance problems and the identification of solutions.

All Council contracts are to include contract management requirements. Furthermore, contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure Council receives value for money.

7.8 Variances

During the course of a contract there may be valid reason(s) when the contract needs to be varied; this variance to the contract normally comes with a cost. All claims for variances must be in writing and approved by the officer with delegated authority as set out in Clause.

Any cumulative variance greater than ten percent (10%) of the original contract price must be reported to the following, dependent on the initial approval:

- Executive Leadership Team Member
- Council

8. DEMONSTRATE SUSTAINED VALUE, INTEGRATION WITH COUNCIL STRATEGY

Council's procurement strategy shall support its corporate strategy, aims and objectives, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community.

8.1 Achieving Best Value for Money

The Council's procurement activities will be carried out on the basis of obtaining Best Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations.

Lowest price is not the sole determinate of Best Value for Money.

8.2 Approach

This will be facilitated by:

- Developing, implementing and managing procurement strategies that support the coordination and streamlining of activities throughout;
- Effective use of competition;
- Using centralised contracts and Standing Offers Agreement where appropriate;

- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender process including appropriate use of e-tendering;
- Council staff responsible for providing procurement services or assistance within Council providing competent advice in terms of available products and agreements; and
- Working with suppliers to create relationships that are professional and productive and are appropriate to the value and importance of the goods, services and works being acquired.

9. ROLE OF SPECIFICATIONS

Specifications used in quotations, tenders and contracts are to support and contribute to Council's Best Value for Money objectives through being written in a manner that:

- Ensures impartiality and objectivity;
- Encourages the use of standard products;
- Encourages sustainability;
- Eliminates unnecessarily stringent requirements; and
- Wherever possible specifies technical standards and requirements that are within the capabilities of local and other suppliers.

10. PERFORMANCE MEASURE AND CONTINUOUS IMPROVEMENT

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be agreed within Council and performance against these targets will be measured and reviewed regularly to support continuous improvement. The performance measurements developed will be used to:

- Highlight trend and exceptions where necessary to enhance performance;
- Improve the internal efficiency of the procurement process and where relevant the performance of suppliers;
- Facilitate relevant programs to drive improvement in procurement to eliminate waste and inefficiencies across key expenditure categories.

11. SUSTAINABILITY

Wherever possible, Broken Hill City Council employees and contractors will pursue the following goals and adhere to the specified objectives when purchasing products and services (noting that these impacts should be considered during the entire life cycle of the product, i.e. the production, distribution, usage and end of life stages).

- **Minimise Unnecessary Purchasing** – only purchase when a product or service is necessary.
- **Minimise Waste** – purchase in accordance with avoid, reduce, reuse and recycle strategies.
- **Save Water and Energy** – purchase products that save energy and/or water.
- **Minimise Pollution** – avoid purchasing products that pollute soils, air or waterways.
- **Non-Toxic** – avoid purchasing hazardous chemicals that may be harmful to human health or ecosystems.
- **Greenhouse Benefits** – purchase products that reduce greenhouse gas emissions.
- **Biodiversity & Habitat Protection** – purchase in accordance with biodiversity and conservation objectives.

- **Value for Money** – purchase for best value for money in the long term.

11.1 Sustainable Procurement Objectives

Council's objectives through sustainable purchasing are to:

- Eliminate unnecessary inefficiency, waste and expenditure.
- Contribute to the combined purchasing power of local government to further stimulate demand for sustainable products, including materials collected through council's kerbside collection.
- Advance sustainability by participating in "closing the life-cycle loop".
- Increase awareness about the range and quality of products available.
- Deliver council's commitments in relation to ecologically sustainable development (ESD) and other environmental and social objectives.
- Play a leadership role in advancing long term social and environmental sustainability.
- Support local businesses and organisations.

12. SUPPORT OF LOCAL BUSINESS

Council is committed to buying from local businesses where such purchases may be justified on Best Value for Money grounds.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within the Broken Hill Local Government Area. Council will also seek from prospective suppliers/contractors where applicable what economic contribution they will make to the Broken Hill Local Government Area. All quotes should allow a ten percent (10%) evaluation allowance for local businesses.

12.1 Purchases over \$250,000

For purchases above those limits set under the Local Government Act 1993 requires that a public tender process is undertaken. All 'Request for Tender' documents must include a Local Content Statement. This allows tenderers to accurately calculate the local content of their tender. The Tender Evaluation Criteria Matrix will include a mandatory weighting of ten (10) percent for local content.

13. SOCIAL PROCUREMENT

Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works. For Local Government, social procurement builds on initiatives already undertaken by the sector in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities. Social procurement is a key mechanism by which to generate wider social benefits by providing a mechanism for linking and integrating social and economic agendas.

Broken Hill City Council supports social procurement when engaging local suppliers, contractors and/or service providers and would seek Ministerial Exemption when the required works provide value for money to Council and would be advantageous to any of the following:

- Employment of disadvantage groups
- Employment of Apprentices
- Employment of recognised Youth Traineeships

- Employment of Youth labour
- Benefits to local community

14. INDIGENOUS PROCUREMENT

Broken Hill City Council aims to support strong Aboriginal communities in which Aboriginal people actively influence and fully participate in economic, social and cultural life.

It recognises that the Government and the business community have a key role to play in broadening opportunities for Aboriginal people to deliver positive socio-economic outcomes.

Council's procurement capacity can be leveraged to support Aboriginal employment opportunities and the participation and growth of Aboriginal owned businesses.

Broken Hill City Council will continue to work meaningfully in partnership with businesses to build a sector that is viable, competitive and achieves outcomes for the benefit of the Aboriginal and broader community.

14.1 Objectives

- Council staff are encouraged to work with suppliers, Aboriginal owned businesses and Aboriginal representative bodies early in the planning stages of procurement activities to identify effective ways of increasing Aboriginal participation in their contracts. If one or more Aboriginal owned businesses are identified, the agency should engage with those suppliers before proceeding to market
- Staff are to give first consideration to Aboriginal owned businesses on prequalification schemes before proceeding to market for procurements valued up to \$250,000 (excl. GST), where appropriate.
- direct negotiation with suitably qualified Aboriginal owned businesses that can demonstrate value for money and delivery of quality goods and services for procurements valued up to \$250,000 (excl. GST)
- apply an Aboriginal participation non-price evaluation criteria in relevant tenders where opportunities exist.

15. DIVERSITY

Promoting equality through procurement can improve competition, Best Value for Money, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.

16. APPLY A CONSISTENT AND STANDARD APPROACH

Council will provide effective and efficient commercial arrangements for the requisition of goods and services.

17. STANDARD PROCESSES

Council will provide effective commercial arrangements covering standard products and provision of standard services across Council to enable employees to source requirements in an efficient manner.

This will be achieved via establishing the following:

- Pricing where relevant;
- Processes, procedures and techniques;

- Tools and business systems (e.g. implementing the appropriate e-catalogue arrangements or e-sourcing arrangements);
- Reporting requirements;
- Application of standard contract terms and conditions.

18. PERFORMANCE INDICATORS

A list of performance indicators will be developed to measure procurement performance.

They will include criteria such as:

- The proportion of expenditure against corporate contracts;
- User and supplier satisfaction levels;
- Knowledge and skill of Council employees in procurement process;
- Level of compliance and understanding of Council procurement policies.

19. MANAGEMENT INFORMATION

Council seeks to improve its performance by capturing and analysing procurement management information in a variety of areas, including:

- Volume of spend;
- Number of transactions per supplier;
- Supplier performance;
- User satisfaction;
- Category management; and
- Green spend

Council will also use external sources of management information to assist with the procurement decision making process including:

- Benchmarking data;
- Information from professional bodies such as the Chartered Institute of Purchasing and Supply Australia;
- Supplier reports.

20. BUILD AND MAINTAIN SUPPLY RELATIONSHIPS

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector aggregated projects or panels, access State Government panel agreements or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.

20.1 Developing and Managing Suppliers

Council recognise the importance of effective and open working relationships with its suppliers, and is committed to the following:

- Managing existing suppliers, via the appropriate development programs and performance measurements to ensure the benefits are delivered,
- Maintaining approved supplier lists,
- Developing new suppliers and improving the capability of existing suppliers where appropriate.

20.2 Supply Market Development

A wide range of suppliers should be encouraged to compete for Council work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations, offering business diversity include:

- Local businesses
- Green suppliers
- Small to medium sized enterprises
- Social enterprises
- Ethnic and minority business
- Voluntary and community organisations.
- Local Content.

20.3 Relationship Management

Council is committed to developing constructive long-term relationships with suppliers. It is important that Council identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:

- Size of spend across Council;
- Criticality of goods / services supplier, to the delivery of Council's services;
- Availability of substitutes;
- Market share and strategic share of suppliers.

20.4 Communication

External communication is very important in ensuring a healthy interest from potential suppliers and partners to Council. The external website will provide:

- Information about Council and how to become an approved supplier,
- A list of existing and forthcoming contract opportunities, projected over a number of years,
- Guidelines for doing business with Council,
- Standard documentation used in the procurement process,
- Links to other relevant sites.

21. CONTINUAL IMPROVEMENT

Council is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

22. COMPLIANCE RESPONSIBILITIES

- Council staff
- Councillors
- S355 Committee's
- Contractors

23. ASSOCIATED DOCUMENTS

- Purchase Card Procedure
- Engagement of Consultants Procedure

- Code of Conduct
- Gifts and Benefits Policy
- Statement of Business Ethics
- Process Documentation
- Suite of Contracts
- OLG Tendering Guidelines

BROKEN HILL

CITY COUNCIL

www.brokenhill.nsw.gov.au