

Submission

Procurement Guidelines for NSW Local Government

08 October 2025

Prepared by Northern Sydney Regional Organisation of Councils

Member Councils: Hornsby Council
Hunter's Hill Council
Ku-ring-gai Council
Lane Cove Council
Mosman Council
North Sydney Council
City of Ryde Council
Willoughby City Council

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Overview

Thank you for the opportunity to make a submission on the draft Procurement Guidelines for NSW Local Government (the Guidelines) issued for consultation. This submission has been prepared with the input and support of our member councils but should be considered draft until it is formally endorsed by the NSROC Board.

About us

Northern Sydney Regional Organisation of Councils (NSROC) is an association of eight local councils who have come together to collaborate and promote a united voice on key issues in our region. Our member councils are Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde and Willoughby. Collectively, the NSROC member councils service an area of 639km² with a population of 660,667. We work together on policy and operational matters to drive efficiency and to enhance our region.

Summary of our comments

In seeking comment to the draft Guidelines, the Office of Local Government website states:

The Guidelines outline best practice procurement principles to support the delivery of quality outcomes that provide value for money while effectively managing risks.

The Guidelines provide clarification on the interpretation and application of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* as they apply to procurement activities. They also give effect to recommendations made by the NSW Auditor General and address identified procurement risks, and corruption risks identified in recent NSW Independent Commission Against Corruption investigations.

A careful reading of the draft Guidelines shows that the draft document as presented does not fully address these objectives.

The Draft Guidelines need to be consistent with Local Government Regulations 2021 (the *Regulations*). This is particularly the case with regard to requirements on negotiation under Regulations clause 178(3)(e). Further, advice with respect to handling of unsolicited proposals needs to be referenced properly especially where these proposals entail significant value of goods and services to be procured.

The Draft Guidelines also appear to impose an unacceptably high administrative burden for all procurement by requiring needs analysis, procurement strategy, contract management plan, communication plan, stakeholder management, risk management etc irrespective of procurement value. It would be better for the Guidelines to express some of the requirements in the context of a procurement risk management framework.

A good test for the efficacy and effectiveness of the Guidelines would be to achieve a careful balance between imposing an unacceptable administrative burden on councils (to seek compliance) and establishing an enduring professional and operating culture that meets the highest standards of ethical conduct while ensuring compliance with the governing legislation and policy settings. To this end recognition of skills in the section on procurement staff (page 26) is welcomed.

We commend the Office of Local Government in undertaking a comprehensive review of procurement guidelines and are pleased to assist the Office in this endeavour. We consider the

outputs from the Working Group to be important as procurement is a critical part of council service delivery strategies enabling them to access best advice and practices in a cost effective manner. Accordingly, we have nominated experienced procurement professionals from our member councils to the procurement working group

Our detailed feedback follows in the next section.

Comments

Consistency with Local Government Act 1993 and Local Government (General) Regulations 2021

1. The Guidelines are inconsistent with the requirements of the Local Government Regulations 2021 with regard to negotiation. Clause 178(3)(e) requires that negotiation with anyone (whether or not they were a tenderer) can occur only after a council resolution. This aspect needs to be reflected in the Procurement Guidelines, as the use of negotiation is inaccurately raised throughout the document (pages 14, 30, 36, 41).
2. The tendering guidelines issued under section 23A need to be incorporated in the procurement guidelines, especially since compliance with these is mandatory. In this regard it is noted that the 2010 version of the Tendering Guidelines are not completely consistent with the Regulations, which have undergone frequent updates since they were enacted in 2021.

Government and local council policies

3. It is noted that the Guidelines recognise the wider strategic context of procurement, specifically compliance with a council's Community Strategic Plan (page 12). This section may be strengthened by strongly recommending that councils develop their own fit-for-purpose procurement policy that reflects the council's strategic priorities. These priorities may include policies of the State Government, such as those relating to economic development (and local preference considerations), social outcomes (social enterprises, Indigenous businesses and participation of Aboriginal people, and disability enterprises) and sustainability (pages 21 – 23).
4. Guidance on consideration and management of unsolicited proposals by local councils should be strengthened as these proposals often include substantial value at risk and have strong procurement or public-private partnerships characteristics. Guidance on the process and considerations of unsolicited proposals should be in the Guidelines. As clarified by Circular 181-2 of 30 April 2018, unsolicited proposals need to comply with the Act and Regulations and it would be best to incorporate advice on this aspect in the Guidelines. The Guidelines currently feature a passing reference to unsolicited proposals in the section on innovation.

Good practice guidance

Procurement policy

5. The language in the draft Guidelines needs to be reviewed, for example use of Limited Request for Tender (which is not allowed under the Regulations) needs to be reconciled with Selective Request for Tender, which differs in that there is a discovery phase to establish the solution and supply need. Note that the Regulations allow for an expression of interest (Regulations cl 166(b)), cl 168, and cl 169) and the use of list of contractors prepared by a public authority, e.g.

LG Procurement, Procurement Australasia Ltd or NSW Procurement (nsw.buy), provided councils have been recognised as eligible organisation by NSW Procurement.

Risk management framework

6. On page 31 in the section titled Procurement Strategy, the Guidelines suggest that for each procurement, regardless of value, a specific procurement strategy should be prepared. This is needlessly administratively burdensome and should be qualified to be carried out in case of high risk (judged by value at risk and/or strategic importance). Where required the procurement strategy and associated procurement plan should cover needs analysis, procurement strategy, contract management plan, communication plan, stakeholder management, risk management etc. as appropriate and linked to an overall council specific procurement policy and risk framework.
7. A risk management approach based on a top-level consideration of risk may be recommended in the Guidelines. For example, simple procurement (sub-categories of procurement value up to \$5,000, value between \$5,000 and \$50,000, value between \$50,000 to \$250,000) and complex and strategic procurement irrespective of value could be one way of ensuring good processes are followed while keeping the administrative burden of compliance manageable.

Information, communication and technology systems

8. Clarify the requirement in the Guidelines for Information, communication and technology section (page 31) by stating which State Government ICT systems and/or platforms that council ICT systems should be compatible with, noting transitional arrangements as councils review and update their systems infrequently and that a large number of councils have only recently invested in select modules of the TechnologyOne system.
9. Specifying requirements for cyber security is welcomed. The Information, communication and technology section (page 31) should include requirements for AI aspects, i.e. risks associated with AI services (especially where AI features are embedded in the system(s) being procured).

Procurement process management

10. The guidelines would be enhanced by inclusion of requirements and advice on procurement values under \$250,000, that is where use of tenders is not mandated.
11. Record keeping for all procurement could be included. We note the requirements for records management for tendering process on page 29, and these should be adopted for all procurement after being amended appropriately to the circumstances of each procurement action in the context of procurement action categorisation.
12. Guidance on managing fraud and corruption risks especially in terms of entering into contracts, validation of services/goods received, asset and inventory management systems, approval for payments etc. and the use of standing order arrangements, which have a high risk of split orders to come in under tendering thresholds inadvertently.

Conclusion

NSROC councils are committed to work to achieving strategic objective of the State Government and to build the capacity and professionalism of procurement activities in councils. We recognise that in most councils, procurement activity is often delegated to business units and procurement is one of many aspects of the work they carry out. Having an easy to refer resource that provides

information on all requirements in one place would be particularly useful for these business professionals. This would also foster a professional procurement skill set across councils and embed strong integrity in procurement actions spanning fairness, impartiality, accountability and record keeping, confidentiality and value for money.

Thank you for the opportunity to provide feedback on the draft Procurement Guidelines – consultation draft.

If you require further information or clarifications, please contact NSROC Executive Director Dr Meg Montgomery on 0401 640 823 or at mmontgomery@lanecove.nsw.gov.au.

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