Procurement Policy

Section 1 - Introduction

(1) This Policy has been informed by the following strategic priorities:

a. Excellence: the University of Newcastle (University) is publicly accountable for the use of its funds and strives to ensure value for money is achieved through procurement to support exceptional outcomes for its students, staff and communities;
b. Engagement: the University is committed to using its resources to engage and support businesses owned and managed by Aboriginal and Torres Strait Islander peoples, visible minorities, local businesses and other underrepresented groups;
c. Sustainability: the University is ethically minded and prioritises responsible management of its environmental, social and financial impact;
d. Equity: the University supports the fair and equitable treatment of its suppliers throughout its supply chain via activity that incorporates social, human rights, and environmental considerations into how the University and its supply chain do business across the world.

Section 2 - Purpose

(2) This Policy establishes the Key Procurement Principles that will govern procurement activities, meet the University's business and strategic requirements, and promote fair and equitable treatment of all current and potential suppliers.

(3) This Policy must be read in conjunction with the Tender Procedure, Purchasing and Companion Card Policy, Quotation Procedure and the Aboriginal and Torres Strait Islander Procurement Strategy.

(4) This Policy supports the University's compliance with the following legislation:

a. Independent Commission Against Corruption Act 1988 (NSW);
b. Government Information (Public Access) Act 2009 (NSW);
c. State Records Act, 1998 (NSW); and
d. Modern Slavery Act 2018 (Cth) (Cth).

Section 3 - Scope

(5) This Policy applies to the procurement of all goods and services for the University and its controlled entities regardless of the source of funding or the procurement method, including capital works and research equipment.

Section 4 - Audience

(6) This Policy should be read and understood by all staff, including staff of controlled entities, who undertake or are involved in procurement activities.

(7) This Policy is available to suppliers and potential suppliers for their information.

Section 5 - Definitions

(8) In the context of this document:

a. “local” means companies who have an office within the same region as the University campus for which the goods or services are being procured. For example, companies local to the University's Callaghan campus are those located within the Hunter region including the greater Newcastle area;
b. “Indigenous” or “Aboriginal and Torres Strait Islander” person means any person who is of Aboriginal and/or Torres Strait Islander descent who is recognised and accepted as such by other Aboriginal or Torres Strait Islander Peoples and who identifies as an Aboriginal and/or Torres Strait Islander. The University acknowledges that Aboriginal and Torres Strait Islander Peoples are two distinct racial groups within the term “Indigenous Australians”; and
c. “contract owner” means the representative(s) from within the business unit who is, in the case of a Panel, responsible for the operational management of the Panel on behalf of the University, or, in the case of any other procurement activity, responsible for operationalising the procured goods and services. The contract owner has overall responsibility, accountability and authority for managing supplier performance and implementation of the contracted goods and services;
d. “Government Panel” means a standing-offer arrangement, pre-qualification scheme, or similar other procurement mechanism established by a state, territory, or Commonwealth Government under which the University is an eligible buyer;
e. “panel” means a Government panel, or a University panel;
f. “panel rules” means the rules that are specific to a panel that relate to its governance and that the University and/or relevant suppliers must comply with to procure or supply goods and/or services under than panel; and
g. “University panel” means a standing offer arrangement established by the University to procure goods and/or services from pre-appointed potential suppliers.

Section 6 - Authority and Compliance

(9) Every binding commitment that is associated with procurement must be authorised in accordance with the University's delegations of authority (see Delegations Register).

(10) University staff members who make purchases or approve expenditure on behalf of the University must do so within an approved source of funds. Any staff member who incurs expenditure beyond or without an approved source of funds will be held accountable for that expenditure.

(11) Procurement must comply with the Key Procurement Principles and give due consideration to the University's legislative, work health and safety, Staff Code of Conduct, Ethical Framework, and other compliance requirements.

(12) It is the responsibility of all business units, divisions, colleges, schools, and committees to ensure the implementation of procurement activities within their respective areas comply with this Policy.

Section 7 - Procurement Principles

(13) The University will undertake all procurement activities using the following Key Procurement Principles.

Value for Money

(14) When procuring goods and services on behalf of the University the initiating and approving officers must ensure the University is achieving the most optimal value for money outcome. Value for money is a measure of quality that assesses the monetary cost of the goods or services against the quality of supply and benefits that they will provide. It is not necessarily the cheapest price nor the highest quality, instead value for money requires an objective and balanced assessment of a range of cost and non-cost factors.

(15) Potential suppliers and sourcing alternatives will be evaluated against the following criteria:

a. alignment with the University's Strategic Plan and objectives;
b. any relevant funding agreement obligations;
c. any relevant non-cost factors including, but not limited to:
    i. fitness for purpose;
    ii. quality;
    iii. delivery lead time;
    iv. ongoing service support;
    v. warranty;
    vi. source of supply;
    vii. applicable health and safety standards;
    viii. impact on society;
    ix. approach to environmental sustainability; and
    x. legal compliance.
d. Total Cost of Ownership (TCO), assessing all costs over the life of the contract including but not limited to:
    i. purchase price;
    ii. acquisition costs;
    iii. insurance;
    iv. delivery;
    v. training;
    vi. operation;
    vii. maintenance;
    viii. installation and commissioning;
    ix. disposal and remediation; and
    x. opportunity cost.

(16) In assessing value for money, the University has a responsibility to ensure that its procurement activities also consider relevant social, gender, community, and environmental issues. Provided that all other Key Procurement Principles are met, and where practical, the following will be favoured by the University:

a. products containing materials that are produced and distributed in a sustainable and ethical manner;
b. locally sourced goods and services;
c. carbon neutral goods and services;
d. suppliers that minimise their energy consumption and adverse environmental impact;

e. suppliers with end of life product stewardship programs;
f. business practices that:
    i. support the global fair trade movement aimed at tackling poverty and empowering producers through trade; and
    ii. do not constitute modern slavery as defined by the Modern Slavery Act 2018 (Cth);
g. suppliers who demonstrate a commitment to gender equity, such as collaborating with the Workplace Gender Equality Agency or complying with the Workplace Gender Equality Act 2012;
h. procurement that supports the participation of Aboriginal and Torres Strait Islander businesses or other minority businesses and social enterprises (see Aboriginal and Torres Strait Islander Procurement Strategy);
i. suppliers who have a strong overall track record and reputation in terms of supporting Indigenous issues and meeting Indigenous procurement guidelines; and
j. suppliers who have a strong overall track record and reputation in terms of environmental and social sustainability.

Open and Fair Competition

(17) Open and fair competition between suppliers supports the University's commitment to obtaining best value for money and ensuring transparency, probity, equity, and ethical behaviour.

(18) The University will ensure that:

a. when required, a Procurement Plan that is appropriate for the related procurement activity, is developed and approved by an authorised delegate;
b. the Quotation Procedure or Tender Procedure is implemented where applicable;
c. the most appropriate market engagement approach is selected, with appropriate justification given for selective or limited market engagements;
d. staff involved in the procurement activity have up-to-date knowledge of the relevant market and the University's requirements;
e. potential suppliers:
    i. are provided with consistent information and opportunity regarding the procurement activity;
    ii. are evaluated against criteria documented in the Procurement Plan, where developed;
    iii. bear minimal cost for participating in the procurement process; and
f. specifications and tender documentation are prepared in a manner that neither favours or disadvantages any supplier invited to participate, and clearly states the University's specifications that must be met.

Transparency, Probity, Equity and Ethical Behaviour

(19) The University will conduct its procurement activities with the highest regard for transparency, probity, equity, and ethical behaviour which includes but is not limited to:

a. procuring goods and services for authorised business purposes only, in accordance with legislation, obligations and the University's policies and procedures;
b. clear justification for procurement in the Procurement Plan, where required;
c. maintaining confidentiality in all dealings;
d. being open to public scrutiny, in accordance with the Government Information (Public Access) Act 2009;
e. disclosure of conflicts of interest and relevant personal interests and dealing with these in accordance with the University's Disclosure of Interest Policy and its associated documents (for example, this may include excluding a staff member from aspects of the procurement process, or the entire activity, where a conflict of interest may exist);

f. declining or declaring gifts, gratuities, or any other benefits that may influence (or be perceived to influence) the procurement process in accordance with the Disclosure of Interest Policy and its associated documents;
g. not engaging in the practice of bid shopping by attempting to lower a price by negotiating or trading between shortlisted or recommended suppliers prior to selecting a preferred proponent;
h. monitoring and reporting on the risks of modern slavery within the University's operations and supply chains and implementing actions to address such risks; and
i. ensuring accurate and sufficiently detailed records are maintained to document the process undertaken, justify the outcome, and provide an audit trail, in accordance with the Records Governance Policy.

(20) The Agency Information Guide provides details of the University's register of contracts in accordance with the Government Information (Public Access) Act 2009. Staff are required to comply with the reporting requirements for contracts under the Government Information (Public Access) Act 2009 by disclosing relevant contract details for all contracts with a total value of $150,000 (GST inclusive) or more, or where a contract variation results in the total value being $150,000 (GST inclusive) or more. Details of how to disclose relevant contract details can be accessed via ServiceNOW.

Risk Management

(21) Risk management, as it relates to the supply of goods and services, is a primary consideration and potential procurement and contract related risks must be identified, analysed, evaluated, treated and monitored across the lifetime of the procurement activity in accordance with the Risk Management Policy, Risk Management Framework and their associated documents. The effort directed to risk assessment and management should be commensurate with the scale, scope and risk of the procurement activity.

(22) Strategic Procurement offers procurement training to all staff, and this should be completed by staff who undertake procurement activities. Strategic Procurement may mandate procurement training for staff as a prerequisite to involvement in procurement activities. Staff are encouraged to undertake refresher training on a regular basis.

Responsible Financial Management

(23) The University will exercise responsible financial management in all procurement processes, including:

a. using University funds appropriately;
b. only initiating procurement activities when it is confirmed that funds have either been formally approved by the Portfolio Resource Allocation Committee (PRAC), or are available within an approved University budget;
c. approval of expenditure of University funds by authorised officers within their delegation limits; and
d. monitoring and evaluating the performance of ongoing contracts to ensure continuing value for money for the University.

(24) As documented within the relevant procurement plan and associated tender documentation, such as a Request for Tender (RFT) or Request for Proposal (RFP), the University reserves the right and discretion to:

a. charge a fee for procurement related activities, such as the provision of tender documentation; or
b. compensate proponents, where reasonable, for expenses incurred in relation to major procurement bids.

Section 8 - Planning and Strategy Development

Procurement Strategy

(25) Procurement planning and strategy development is an important element of the procurement process and will be undertaken to ensure the successful fulfillment of University objectives.

(26) Throughout the budgeting and forecasting process Strategic Procurement will identify and develop Procurement Strategies for meeting the existing and future University strategies in consultation with key stakeholders. Strategic Procurement will also assist business areas to meet project specific procurement outcomes.

(27) Strategic Procurement, in consultation with key stakeholders, will prepare an annual Procurement Strategy, which will be reviewed on a quarterly basis to address, at a minimum, strategic objectives and targets, governance, planning and analysis, implementation, and performance measurement.

Procurement Plans

(28) Development of a Procurement Plan will be undertaken for:

a. any procurement activity for the purchase of goods or services (including capital works and research equipment) that is valued at $250,000 (GST exclusive) or more; or
b. any procurement activity that is valued at less than $250,000 (GST exclusive) which:
    i. involves an evaluation of non-price criteria;
    ii. involves the procurement of goods or services assessed as high or extreme risk (as defined by the University's Risk Management Framework); or
    iii. where either Strategic Procurement or the business unit determine a Procurement Plan is required considering the experience of the University buyer and the market.

(29) All other purchases will be undertaken in accordance with the Quotation Procedure.

(30) When estimating the value of the procurement activity, the Total Cost of Ownership of the underlying good or service must be included, refer clause 15.

(31) Details to be addressed in all Procurement Plans include (as a minimum): methodology, market selection, timeline, evaluation criteria, evaluation participants, details of the commercial offer, procurement and contract management risk assessments, and ongoing contract management requirements.

(32) Identification and management of risk will be a requirement for all Procurement Plans.

(33) For capital expenditure projects that require the engagement of multiple suppliers who will each deliver a discrete outcome required to complete the overarching project, the Procurement Plan must be developed to address each specific procurement activity required to complete the project. Assessing the specific requirements of each activity will assist in achieving the best outcomes for the University and its potential suppliers.

(34) The Procurement Plan must be approved by an authorised delegate in accordance with the University's delegations of authority (see Delegations Register).

(35) Staff approving a Procurement Plan are required to independently assess whether the procurement approach is in accordance with this Policy and relevant procedures. This is distinct from the approval of the allocation of funds reviewed under a financial delegation. In some circumstances both the compliance and financial approval may be enacted by the same person where they hold dual delegations.

Restricted Use Agreements

(36) Responsibility for preparing a Procurement Plan for use within a business unit or for a specific project, known as

a Restricted Use Agreement, lies with the initiating business unit, with various components of the Procurement Plan supported by the following stakeholders:

a. Finance Business Partners for details of funding availability and/or appropriate financing strategies;
b. Legal and Governance Services for consideration of all relevant legal contract, and ongoing contract management requirements;
c. Governance and Assurance Services for consideration of all relevant insurance and risk assessment requirements;
d. Digital Technology Solutions for information security, privacy and enterprise architecture advice (if required); and
e. Strategic Procurement for specialist procurement and probity advice.

(37) The initiating business unit, with support and advice from Strategic Procurement, will apply this Policy to determine the specific procurement strategy and method (open, selective or limited) that will be most appropriate for delivering the best procurement outcome with reference to the procurement principles above. This will be based on an assessment of complexity, scope, opportunities and risks associated with the procurement objectives, as well as the level of competition and capability in the supply market.

(38) Strategic Procurement will review and provide endorsement or feedback on any perceived deviation from Policy and Procedure within Procurement Plans for Restricted Use Agreements prior to their submission for delegated approval. The approver is responsible for ensuring appropriate compliance of the Procurement Plan with University Policy and Procedure.

Common Use Agreements

(39) Common Use Agreements will be established for use across the University to achieve savings and benefits wherever practical. The process and requirements of purchasing from a specific Common Use Agreement is documented in a buying guide available on ServiceNOW.

(40) Responsibility for preparing a Procurement Plan for a Common Use Agreement lies with Strategic Procurement, with various components of the Procurement Plan supported by the following stakeholders:

a. key users of the goods or services being procured for input into the scope and service requirements;
b. Legal and Governance Services unit for consideration of all relevant legal contract and ongoing contract management requirements; and
c. Governance and Assurance Services for consideration of all relevant insurance requirements and risk management.

Formation of Supply Relationships

(41) The University may enter into a formal contractual arrangement with a supplier(s) as a result of a tender or other market engagement process. Staff must use contracted suppliers unless there is a documented and justifiable reason to use an alternative supplier, such as:

a. an ability to source goods or services at a significantly lower price;
b. an inability of the contracted supplier to supply goods or services that are fit for a specific purpose; or
c. a stipulation in an external funding agreement.

(42) In exceptional circumstances, and with valid justification, a plan to use an alternative supplier to that already contracted to the University, for a reason other than those specified in clause 41, must be submitted for approval by a relevant delegate who has authority to approve or vary a Procurement Plan(see Delegations Register).

Consideration will be given to the terms and conditions specified in the existing contract and approval will only be made on the condition that purchasing from an alternative supplier does not represent a breach in contract or diversion from the Key Procurement Principles.

(43) The contract owner must monitor the performance of its suppliers to ensure that the University continues to obtain best value for money in procurement activities.

(44) A list of contracted common use suppliers can be found on the Strategic Procurement Sharepoint Site.

Panels Generally

(45) The University may establish or access Panels where it is demonstrated that:

a. all Key Procurement Principles can be met;
b. the Panel has been endorsed by Associate Director, Strategic Procurement; and
c. the establishment or access of the Panel is approved by an appropriate delegate.

(46) Strategic Procurement will review panels on a regular basis to ensure that all Key Procurement Principles are being met and may continue to be met.

Government Panels

(47) The University will comply with the panels rules of a Government panel when accessing it to undertake procurement activities. The panel rules will override Clause 28 of the Procurement Policy, Quotation Procedure, Tender Procedure, and the Aboriginal and Torres Strait Islander Procurement Strategy (to the extent that they are inconsistent). This will not apply to to any terms in the panel rules that require the University to comply with any state, territory or Commonwealth legislation, legislative instrument, policy or procedure that does not ordinarily apply to the University (for example, the NSW Procurement Policy Framework).

University Panels

(48) The University will develop panel rules when establishing a University panel. These rules will govern the procurement of goods and/or services from panel suppliers. The panel rules will override clause 28 of the Procurement Policy, Quotation Procedure, Tender Procedure, and the Aboriginal and Torres Strait Islander Procurement Strategy (to the extent that they are inconsistent) when the University undertakes procurement activities using the University panel.

(49) Unless otherwise specified in the documentation establishing the relevant University panel, the University's Standard Panel Rules for University Panels will be the panel rules for each University panel.

Timely and Accountable Decision-making

(50) This Policy is underpinned by the Tender Procedure, Quotation Procedure, Aboriginal and Torres Strait Islander Procurement Strategy and Purchasing and Companion Card Policy that support timely decision-making across the University.

(51) Staff involved in a procurement process must be aware that every element of procurement may impact the procurement outcome, and as such, individual staff may be held accountable for their actions or decisions.

(52) After a contract is established, it may become necessary to make changes via a contract variation. Staff must not seek, or allow, a contract variation where it would amount to a significant change to the underlying contract or significantly vary the scope of the contract where:

a. other potential suppliers may have responded differently to the amended contract scope in the tendering

process which may have resulted in a different value for money outcome; or

b. the variation may compromise the value for money assessment.

(53) For contract variations where a significant change of scope is proposed or required, Strategic Procurement may determine that a new procurement activity is required.

Section 9 - Monitoring, Support and Non-Compliance

(54) Contract owners are responsible for monitoring the performance of suppliers to ensure ongoing compliance with the Key Procurement Principles and to deliver overall value for money. This may include monitoring performance against contract key performance indicators.

(55) Strategic Procurement provides support and guidance for all procurement activities across the University and is available to assist all University staff with any queries, concerns, or advice in undertaking procurement activities.

(56) Strategic Procurement may undertake an evaluation of a procurement activity at the cessation or renewal of a supply contract to assess the outcome of the procurement against the Key Procurement Principles.

(57) Strategic Procurement will monitor compliance with this Policy via any lawful means deemed necessary.

(58) Breaches of this Policy may be recorded by Strategic Procurement in a register and, having regard to the severity of the breach, may be subject to an appropriate escalation process.

Section 10 - Complaints Resolution

(59) Any complaints arising from the University's procurement activities will be handled in accordance with the University's Complaint Management Policy and Complaint Management Procedure.

Status and Details

Status	Current
Effective Date	15th September 2023
Review Date	3rd March 2025
Approval Authority	Chief Operating Officer
Approval Date	4th September 2023
Expiry Date	Not Applicable
Responsible Executive	Morven Cameron Chief Operating Officer
Enquiries Contact	Tamarin King Associate Director, Strategic Procurement Legal and Governance Services

Glossary Terms and Definitions

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Risk" - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

"Risk management" - The co-ordinated activities of assessing, controlling, monitoring, and reviewing risk in the pursuit of the University's objectives.

"Risk assessment" - The overall process of risk identification, risk analysis, and risk evaluation.

"Bid shopping" - The practice of playing one potential supplier or bidder against another to obtain a lower price, either before or after the submission of a quotation or tender.

"Capital expenditure" - Expenditure relating to the purchase, creation or subsequent improvement of an asset controlled or owned by the University. Capital expenditure may relate to tangible assets (such as land, buildings, or equipment) or intangible assets (such as intellectual property or long term software licences) that have a useful life beyond 12 months. Expenditure that simply maintains an asset in its current state is an operating expense (repairs and maintenance) and is not capital expenditure.

"Controlled entity" - Has the same meaning as in section 16A of the University of Newcastle Act 1989.

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Officer" - Has the meaning given in the Corporations Act 2001 (Cth), or any replacing legislation.

"Procurement" - The overarching activities, processes and systems undertaken to acquire goods and services for the University.

"Research" - As defined in the Australian Code for the Responsible Conduct of Research, or any replacing Code or document.

"School" - An organisational unit forming part of a College or Division, responsible for offering a particular course.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

"College" - An organisational unit established within the University by the Council.

"Delegate" - (noun) refers to a person occupying a position that has been granted or sub-delegated a delegation of authority, or a committee or body that has been granted or sub-delegated a delegation of authority.