

# BARCALDINE REGIONAL COUNCIL POLICY

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<b>SYSTEM:</b>	Finance	
<b>POLICY TITLE:</b>	<b>Procurement Policy</b>	
<b>ADOPTED:</b>	15 June 2011	
<b>AMENDED:</b>	16 November 2011	27 June 2012
	17 April 2013	28 May 2014
	17 December 2014	15 June 2015
<b>POLICY NUMBER:</b>	<b>F021</b>	
<b>PURPOSE:</b>	To obtain value for money for the Council and the community by applying sound principles and procedures to the acquisition of goods and services.	

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## 1. Introduction

Procurement is the process of obtaining goods and services required by, but not available from within Council.

The purpose of this policy is to provide Barcaldine Regional Council and its employees with clear guidelines in procurement practices and procedures and to provide greater accountability and consistency.

It also ensures that procurement complies with the Local Government Act and Regulation.

## 2. Legal Requirements

### ***Local Government Act 2009***

Section 104 requires Council to adopt sound contracting principles when entering into a contract for—

- (a) the supply of goods or services; or
- (b) the carrying out of work; or
- (c) the disposal of assets.

The *sound contracting principles* are—

- (a) value for money; and
- (b) open and effective competition; and
- (c) the development of competitive local business and industry; and
- (d) environmental protection; and
- (e) ethical behaviour and fair dealing.

Council is not required to give equal consideration to each of the sound contracting principles.

### ***Local Government Regulation 2012***

Section 198 requires a local government to prepare and adopt a policy about procurement (a *procurement policy*).

The procurement policy must include details of the principles, including the sound contracting principles that the local government will apply in the financial year for purchasing goods and services.

The local government must review its procurement policy annually.

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## **Contracts**

Section 224 of the Local Government Regulation 2012 explains what a local government must do before it enters into—

- (a) a medium-sized contract; or
- (b) a large-sized contract.

A **medium-sized contract** is a contract expected to be worth \$15,000 or more but less than \$200,000 (excluding GST) in a financial year.

A **large-sized contract** is a contract expected to be worth \$200,000 or more (excluding GST) in a financial year.

### **Medium-sized contract—quotes needed first (Section 225)**

- (1) A local government can not enter into a medium-sized contract unless the local government first invites written quotes for the contract.
- (2) The invitation must be given to at least 3 persons who the local government considers can meet the local government's requirements, at competitive prices.
- (3) The local government may decide not to accept any of the quotes it receives.
- (4) However, if the local government does decide to accept a quote, the local government must accept the quote most advantageous to it having regard to the sound contracting principles.

### **Large-sized contract—tenders needed first (Section 226)**

A local government can not enter into a large-sized contract unless the local government first invites written tenders for the contract under section 228.

### **Tender process (Section 228)**

- (1) This section is about how a local government must invite written tenders for a large-sized contract.
  - (2) The local government must either—
    - (a) invite written tenders under subsection (4); or
    - (b) invite expressions of interest under subsection (5), before considering whether to invite written tenders under subsection (6)(b).
  - (3) However, the local government may invite expressions of interest under subsection (5) only if the local government—
    - (a) decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
    - (b) keeps a record of its reasons for making the resolution.
  - (4) The invitation for tenders must—
    - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
    - (b) allow written tenders to be given to the local government for at least 21 days after the advertisement is published.
  - (5) The invitation for expressions of interest must—
    - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
    - (b) allow written expressions of interest to be given to the local government for at least 21 days after the advertisement is published.
  - (6) If the local government invites expressions of interest under subsection (5), the local government may—
    - (a) prepare a shortlist from the persons who respond to the invitation for expressions of interest; and
    - (b) invite written tenders from those persons.
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- (7) If—
- (a) an invitation to tender under subsection (4) or (6)(b) states that the local government might later invite all tenderers to change their tenders to take account of a change in the tender specifications; and
  - (b) the local government does change the tender specifications;  
the local government may invite all the persons who submitted a tender to change their tender to take account of the change, before making a decision on the tenders.
- (8) A local government may decide not to accept any tenders it receives.
- (9) However, if the local government does decide to accept a tender, the local government must accept the tender most advantageous to it, having regard to the sound contracting principles.

### **Exceptions for medium and large-sized contracts**

Section 229 explains when a local government may enter into—

- (a) a medium-sized contract without first inviting written quotes; or
- (b) a large-sized contract without first inviting written tenders.

### **Exception if quote or tender consideration plan prepared (Section 230)**

- (1) A local government may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if the local government—
- (a) decides, by resolution, to prepare a quote or tender consideration plan; and
  - (b) prepares and adopts the plan.

### **Exception for contractor on approved contractor list (Section 231)**

- (1) This section applies to a medium-sized contract or large-sized contract for services.
- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is made with a person who is on an approved contractor list.
- (3) An **approved contractor list** is a list of persons who the local government considers to be appropriately qualified to provide the services.
- (4) The local government must put together the approved contractor list by—
- (a) inviting expressions of interest from suitably qualified persons, by an advertisement in a newspaper that circulates generally in the local government area; and
  - (b) allowing expressions of interest to be given to the local government for at least 21 days after the invitation is advertised; and
  - (c) choosing persons for the approved contractor list on the basis of the sound contracting principles.

### **Exception for register of pre-qualified suppliers (Section 232)**

- (1) This section applies to a medium-sized contract or large-sized contract for the supply of goods or services.
- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers.
- (3) A local government may establish a register of pre-qualified suppliers of particular goods or services only if—
- (a) the preparation and evaluation of invitations every time that the goods or services are needed would be costly; or
  - (b) the capability or financial capacity of the supplier of the goods or services is critical; or
  - (c) the supply of the goods or services involves significant security considerations; or
  - (d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the local government; or
  - (e) the ability of local business to supply the goods or services needs to be discovered or developed.

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- (4) A **pre-qualified supplier** is a supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

### **Exception for a preferred supplier arrangement** (Section 233)

- (1) This section applies to a medium-sized contract, or a large-sized contract, for goods or services if a local government—
- (a) needs the goods or services—
    - (i) in large volumes; or
    - (ii) frequently; and
  - (b) is able to obtain better value for money by accumulating the demand for the goods or services; and
  - (c) is able to describe the goods or services in terms that would be well understood in the relevant industry.
- (2) A local government may enter into a contract for the goods or services without first inviting written quotes or tenders if the contract is entered into with the preferred supplier under a preferred supplier arrangement that is made in compliance with subsections (3) to (8).
- (3) A local government must invite persons to tender for a preferred supplier arrangement.
- (4) The invitation to tender for a preferred supplier arrangement must—
- (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
  - (b) allow tenders to be given to the local government for at least 21 days after the advertisement is published; and
  - (c) describe the terms of the preferred supplier arrangement.
- (5) When selecting a person to be the preferred supplier under a preferred supplier arrangement, the local government must have regard to the sound contracting principles.
- (6) The local government must ensure the terms of the preferred supplier arrangement allow the contract to be cancelled for the poor performance of the preferred supplier.
- (7) A preferred supplier arrangement may be entered into for a term of more than 2 years only if the local government is satisfied it will get better value for the local government.
- (8) For subsection (7), the term of a preferred supplier arrangement includes any period provided for under the arrangement by which the term of the arrangement can be extended.

### **Exception for LGA arrangement** (Section 234)

- (1) A local government may enter into a contract for services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement. (eg Local Buy)

### **Other exceptions** (Section 235)

A local government may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if—

- (a) the local government resolves it is satisfied that there is only 1 supplier who is reasonably available; or
- (b) the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders; or
- (c) a genuine emergency exists; or
- (d) the contract is for the purchase of goods and is made by auction; or
- (e) the contract is for the purchase of second-hand goods; or
- (f) the contract is made with, or under an arrangement with, a government body.

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## **Publishing details of contracts worth \$200,000 or more (Section 237)**

- (1) A local government must, as soon as practicable after entering a contract worth \$200,000 or more (excluding GST)—
  - (a) publish relevant details of the contract on the local government's website; and
  - (b) display relevant details of the contract in a conspicuous place in the local government's public office.
- (2) The relevant details must be published or displayed for a period of at least 12 months.
- (3) In this section— **relevant details**, of a contract, include the following—
  - (a) the person with whom the local government has entered into the contract;
  - (b) the worth of the contract;
  - (c) the purpose of the contract.

## **Entering into a contract under a delegation (Section 238)**

- (1) This section applies if a local government delegates, under section 257 of the Act, power to make, amend or discharge a contract for the local government.
- (2) The delegate may make, amend or discharge a contract (the **contractual action**) for the local government if—
  - (a) the local government's expenditure because of the contractual action has been provided for in the approved annual budget for—
    - (i) the financial year when the contractual action is taken; or
    - (ii) the financial year in which the delegation resolution is made, if the expenditure is within the limits stated in the resolution; or
  - (b) the contractual action has been taken because of genuine emergency or hardship.
- (3) The delegate may take the contractual action in the same way as an individual.
- (4) This section does not affect another law that requires—
  - (a) an approval, consent or permission to be obtained; or
  - (b) a procedure to be complied with for taking the contractual action.

### **3. Policy Provisions**

#### **(i) Practices**

All tenders, quotations and general purchasing shall be conducted in accordance with the Local Government Act 2009 and Local Government Regulation 2012 as a standard requirement.

Council has additional procurement requirements as set out in this Policy.

An employee or contractor of Barcaldine Regional Council shall only order goods or services by quoting an official purchase order number and after complying with the policies and procedures contained in this document.

#### **(ii) Delegation**

Delegation is provided under two processes:

- (a) Financial Delegation: this form of delegation provides officers with authority to approve requisitions to prescribed limits only for expenditure in their area of responsibility within the constraints of the approved budget.
- (b) Purchasing Thresholds: this form of delegation provides officers with delegated authority to sign purchase orders on the Council's behalf to prescribed expenditure limits in their area of responsibility and within the constraints of the approved budget.

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### (iii) Purchase of Goods and Services

#### **AT ALL TIMES EXPENDITURE MUST BE WITHIN THE DELEGATED AUTHORITY OF THE EMPLOYEE AND BE WITHIN BUDGET LIMITS**

- (a) **Petty Cash – Up to \$100:** purchases up to \$100 may be made out of Petty Cash.
- (b) **Purchase Orders – Up to \$499:**  
A Purchase Order may only be signed and issued after:
  - (i) obtaining **one verbal or written quote** which complies with five sound contracting principles and is recorded on a Procurement Quote Form or Internal Order Requisition Form.
- (c) **Purchase Orders – From \$500 Up to \$4,999:**  
A Purchase Order may only be signed and issued after:
  - (i) obtaining **two written quotes** which comply with the five *sound contracting principles* and are recorded on a Procurement Quote Form; or
  - (ii) obtaining **one written quote** which complies with the five *sound contracting principles* and which complies with one of the exceptions at (f) below.
- (d) **Purchase Orders - \$5,000 Up To \$199,999:**  
A purchase order may only be signed and issued after:
  - a. obtaining **three written quotes** which comply with the five *sound contracting principles* and are recorded on a Procurement Quote Form; or
  - (ci) obtaining **one written quote** which complies with the five *sound contracting principles* and which complies with one of the exceptions at (f) below.
- (e) **Purchase Orders - \$200,000 or greater:**  
**Tenders or Expressions of Interest** must be invited for contracts costing more than \$200,000. Council may enter into a contract without calling tenders by applying one of the exceptions in (f) below.
- (f) **Exceptions:**  
A purchase order may be raised after complying with one of the following exceptions:
  - (i) accessing a supplier from Council's Register of Approved Contractors; or
  - (ii) accessing a supplier from Council's Register of Pre-qualified Suppliers; or
  - (iii) accessing a supplier through a Council Preferred Supplier Arrangement; or
  - (iv) accessing a LOCALBUY arrangement; or
  - (v) Council resolves it is satisfied that there is only 1 supplier who is reasonably available; or
  - (vi) Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders; or
  - (vii) a genuine emergency exists; or
  - (viii) the contract is for the purchase of goods and is made by auction; or
  - (ix) the contract is for the purchase of second-hand goods; or
  - (x) the contract is made with, or under an arrangement with, a government body.

Where it is not possible to obtain the requisite number of quotes the purchase must be approved by the Chief Executive Officer or Executive Manager.

Where an exception is applied, the reason for the exception must be recorded and, except for a LOCALBUY arrangement, the purchase must be approved by the Chief Executive Officer or Executive Manager.

A written quote includes an electronic response (eg Vendor Panel) or a catalogue excerpt.

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### (iv) Tenders

Tenders must be invited before making a contract for the carrying out of work or for the supply of goods or services involving a cost of more than \$200,000. However tenders may be invited for contracts of less than \$200,000.

The invitation to tender must be an advertisement in a newspaper circulating generally in the Barcaldine Regional Council area and will allow at least twenty-one (21) days from the day of the advertisement for the submissions of tenders. Tenders may also be advertised on LG Tender Box.

Tenders may be lodged by facsimile, email or in writing and lodged by a set date and time. Such tenders should be clearly endorsed with the tender reference.

Specifications, where appropriate, must set out the minimum performance requirements, dimensions and purpose for which the goods/services are required.

- (a) *Functional Specifications*: functional specifications will outline the proposed role of the product in achieving the desired result. The specifications will define the task or desired result and may describe the general form of the goods and services required.

The specifications will focus on what is to be achieved and be less prescriptive on how the task or result is to be done. The Council accepts that for functional specifications, specific performance tests are not required to demonstrate compliance.

- (b) *Performance Specifications*: performance specifications will, where appropriate, detail the required performance characteristics which will be subject to testing on delivery to demonstrate compliance with the specifications. Such specifications will, if appropriate, include maximum and minimum performance criteria and methods of measuring performance. The methods used to test performance will not be specified to promote overly innovative proposals.
- (c) *Technical Specifications*: technical specifications must detail the physical description of the product including elements such as size, capacity, rating and materials. The product must have a performance or application which is established and well known so that specific performance tests are not necessary.
- (d) *Material Specifications*: material specifications must state the physical characteristics of material - ie: basic, semi-fabricated or compound. They will be used for describing specific material and may refer to specific commercial or industrial standards.
- (e) *Tender Closing Time and Date*. Council shall provide a strongly constructed tender box in a designated area of Council premises for the purpose of holding all tender documents submitted by potential suppliers.

The tender box shall be securely locked with keys held by the Chief Executive Officer or Delegate.

All tenders and formal quotation documents received before the advertised tender closure time shall be lodged in the tender box unopened. Tender documents received after the advertised closing date and time shall be deemed invalid unless there is satisfactory evidence to Council that such tender:

- (i) was delivered to Council before the specified closing time, or
- (ii) was despatched to reach Council under normal circumstances before the specified closing time but was still in the course of delivery at that time.

Tenders shall close at the time and date stated in the tender documents.

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- (f) *Tender Openings*: the opening of tenders shall be carried out by two (2) nominated Barcaldine Regional Council representatives.
- (g) Changes to tenders apply if:
- (i) the Council invites tenders for a contract; and
  - (ii) the invitation to tender states that the Council may invite all tenderers to change their tenders;
  - (iii) before making a decision on the tenders, the Council may invite all the persons who have submitted a tender to change their tender to take account of a change in the tender specifications.

(v) Acceptance

The Council or its delegate as appropriate will accept tenders or quotes which are the most advantageous to it. However Council may decide not to accept any tender or quote. The Council, in deciding the tender or quote most advantageous to it, will have regard to the five *sound contracting principles* as set out in the Local Government Act and this Policy.

(vi) Sound Contracting Principles

All Council contracts shall have regard to the five sound contracting principles:

- (a) ***Open and Effective Competition***: Council will:
- i. ensure all suppliers wishing to conduct business with Council shall have a reasonable opportunity to do so;
  - ii. maximise the prospect of obtaining the most cost effective outcomes;
  - iii. ensure there is no favouritism to particular suppliers;
  - iv. ensure contracts are awarded on the basis of merit; and
  - v. ensure Council's procurement procedures are visible to the Council, the public and suppliers.
- (b) ***Value for Money***: Council believes value for money:
- i. represents the best return and performance from the money spent over the extended life of the product or service;
  - ii. does not always mean the lowest price;
  - iii. can be achieved by the use of open specifications that provide for alternative offers and also enhance the prospect of receiving value for money; and
  - iv. will be enhanced through quality assurance systems.
- (c) ***The development of competitive Local Business and Industry***: Council will:
- i. enhance the opportunity for local suppliers of goods and services to be considered for Council business; and
  - ii. encourage and give local suppliers every opportunity to compete for the Council's business.
- (d) ***Environmental Protection***: Council will encourage environmentally sustainable development by promoting purchasing practices which:
- i. conserve resources;
  - ii. save energy;
  - iii. minimise waste;
  - iv. protect human health;
  - v. maintain and improve environmental quality and safety; and
  - vi. promote the use of recycled materials.



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- (e) ***Ethical Behaviour and Fair Dealing:*** Council will implement practices that:
- i. operate with impartiality and openness;
  - ii. have a high degree of integrity;
  - iii. advance the interests of the Council; and
  - iv. avoid suppliers who seek favours and operate outside of competition and the policies encompassed in this document.

The acceptance of gifts or hospitality benefits by employees or contractors must be treated in accordance with Council's Gifts and Benefits Policy.

(vii) Evaluation Criteria

When evaluating offers, Council officers shall have regard to the five sound contracting principles.

The selected offer shall achieve value for money that is consistent with the purpose of the item or service being provided.

At least two officers of the Council shall be involved in the evaluation and awarding of all purchase orders.

Any Councillor or Officer who has any personal interest whatsoever in the contract shall be excluded from the tender evaluation process.

Officers must keep appropriate records or files to satisfy audit requirements and to establish that the principles and procedures contained in this policy have been complied with.

(viii) Local Preference

Council officers involved in procurement practices shall encourage local business to quote for the purchase of goods and services. This will be achieved by:

- (a) actively seeking out local suppliers and supplies;
- (b) ensuring quotes include freight to point of delivery in the total cost;
- (c) ensuring that purchases and projects are not structured to exclude local suppliers;
- (d) avoiding non-standard specifications which local suppliers cannot meet;
- (e) improving the business community's understanding of the Council's purchasing policy and practices;
- (f) using locally sourced goods and services, where performance, quality, suitability and other evaluation criteria are comparable with non-locally sourced goods and services the following weighting factors will apply:

Value of Goods or Services	Weighting
\$0 - \$999	10%
\$1,000 – \$49,999	5%
\$50,000 - \$199,999	4%
\$200,000 or greater	0%

A **local business** is a business with a combination of at least three of the following:

1. the business has its business premises/depot located within the Barcaldine Regional Council area;
2. the business employs/subcontracts people residing in the Barcaldine Regional Council area;
3. The owners of the business reside in the Barcaldine Regional Council area;
4. The business and/or its owners are ratepayers of Barcaldine Regional Council area;

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(ix) Barcaldine Regional Council Workplace Health & Safety

All contractors and suppliers of goods or services shall ensure that the work undertaken or goods supplied complies with the relevant statutes, regulations and standards, which pertain to Workplace Health and Safety.

(x) Quality Assurance and Risk Management

Wherever possible, goods and services shall be procured from suppliers with an appropriate Quality Management System and Risk Management System.

Suppliers who can demonstrate that they have implemented or have substantially implemented a Quality Assurance System will place themselves in a favourable position in respect to supply of the Council's requirements.

(xi) Emergencies

The Local Government Regulation 2012 makes provision for expenditure in a genuine emergency. An example of genuine emergency or hardship includes potential flood damage, storm damage, etc and action must be taken to protect public assets by immediate action.

(xii) Weightings

Weightings may be used when evaluating offers, as a means of determining the offer most beneficial to the Council. Weightings may relate to price, delivery, stockholding policy, specialised servicing, quality assurance, local supplier support, warranty provisions, environmental impact, etc. Whenever weightings are applied in the evaluation process, they must be applied consistently and documented for audit purposes.

(xiii) Purchase Order Forms

The issue of a purchase order represents the acceptance of an offer, thereby establishing a contract with the legal implications that this entails. It is important to note that Council orders must be raised before the supply of goods and services.

Purchase orders must specify where and to whom the goods are to be delivered along with delivery instructions. Purchase orders must contain a quoted price or estimated quoted price apportioned to the relevant budget numbers.

Purchases made under a Local Buy Arrangement must list the Local Buy Contract Number (ie BUSXXX-XXXXX).

(xiv) Order Splitting

Expenditure limits and threshold limits have been set in this policy to ensure proper controls and checks are carried out on all purchases. No officer shall break down a procurement of products or services into its components or reduce quantities or take any other action in order to avoid complying with this policy or obtaining the prescribed approvals.

(xv) Disclosure

All requests for information regarding tenders or quotations submitted will be dealt with by Council under the provisions of the Right to Information legislation and should be forwarded to Council's RTI officer.

(xvi) Receipt

Immediately upon receipt, goods must be inspected for compliance with the order specifications and quantities and be reconciled with the order. The supplier must be formally notified of any returns or

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shortfalls or damage to the goods received. Credit requests will be raised and shortages endorsed on the delivery documents to ensure that the accounts payable section pays only for the quantities received and authorised for payment.

(xvii) Payment

A signed proof of satisfactory receipt of the goods/services must be sent to the Accounts Payable Section to authorise payment to the supplier. Shortages, incorrect supplies, damaged goods, etc must be noted on the invoice.

Unless otherwise negotiated or specified in the offer or on the account, payment will be made in accordance with Council's trading terms of net thirty (30) days in the month following the date of receipt.

Settlement discounts will be treated with urgency by the Council officers and processed within the nominated discount period.

Orders which may require cancellation must be referred immediately to the issuing procurement officer for appropriate action.

(xviii) Penalties

Council contract documentation must incorporate any mandatory clauses regarding the supplier's guarantee to supply and the consequences, if any, the supplier will incur for any default.

### **APPENDIX A**

#### Expenditure Limits for Authorised Officers

The following schedule indicates the authorized officers and expenditure limits for orders, requisitions and payments.

<b>Position</b>	<b>Expenditure Limit</b>	<b>Requisitions</b>	<b>Orders</b>
Chief Executive Officer	No limit if budgeted or approved by Council or \$10,000 not budgeted	Yes Yes	Yes Yes
Executive Manager	\$200,000 budgeted or approved by Council or \$2,000 not budgeted	Yes Yes	Yes Yes
Manager of Engineering Services	\$200,000 budgeted or approved by Council	Yes	No
Senior Administration Officer	\$100,000 budgeted or approved by Council	Yes	Yes
Designated Purchasing Officer	\$50,000 budgeted	Yes	No
Other Authorised Officer	\$5,000 Budgeted	Yes	No

All orders (or the relevant quote) must be authorized by a different officer to the officer requesting the goods or services.

All orders in excess of \$5,000 must be authorized by two officers in addition to the officer requesting the goods or services.