



Murrindindi
Shire Council

Procurement Policy

September 2021



Acknowledgement of Country

Council acknowledges the traditional custodians of the land comprising the Murrindindi Shire Council area, and those of our neighbouring municipalities. We pay respect to Elders past and present, and celebrate and respect their continuing culture and connection to the land.

Table of Contents

1. Purpose	4
2. Rationale.....	4
3. Scope	4
4. Policy	5
4.1 Governance & Ethics	5
4.1.1 Good Governance	5
4.1.2 Service Performance Principles	5
4.1.3 Conduct of Councillors and Council Employees	5
4.1.4 Council expectations of participants in procurement processes and/or suppliers	6
4.1.5 Modern Slavery.....	6
4.1.6 Gifts and Hospitality	6
4.1.7 Conflict of Interest.....	7
4.1.8 Probity	7
4.1.9 Responsible Financial Management	8
4.2 Sustainable Procurement.....	8
4.2.1 Sustainable Procurement Definition	8
4.2.2 Supporting Local Economic Outcomes	8
4.2.3 Supporting Environmental Outcomes.....	9
4.2.4 Supporting Social Outcomes.....	10
4.3 Procurement Methods and Thresholds	10
4.3.1 Procurement Methods and Specifications	10
4.3.2 Process for Achieving Value for Money (Procurement Thresholds).....	11
4.3.3 Exemptions from tendering	12
4.3.4 Procurement Threshold Exemptions.....	12
4.3.5 Variations to Council resolution.....	12
4.3.6 Purchasing from Existing Standing Offer or Panel Agreements.....	13
4.4 Communications	13
4.5 Publishing and advertising of Public Tenders.....	14
4.6 Council’s Documents and e-Tendering Portal.....	14

Procurement Policy – 2021-09

4.7	Evaluation	14
4.8	Procurement Control Arrangements	15
4.8.1	Risk Management	15
4.8.2	Cumulative Spend.....	15
4.8.3	Approval to Release Procurement Documents	15
4.8.4	Late Submissions to Tenders	16
4.8.5	Authority to Purchase.....	16
4.9	Emergency Procurement.....	16
4.10	Collaborative Procurement.....	16
4.11	Build and Maintain Supply Relationships	17
4.11.1	Developing and Managing Suppliers.....	17
4.11.2	Contract Management	17
4.11.3	Performance Measures.....	18
4.12	Discipline and Disputes.....	18
4.12.1	Complaints.....	18
4.12.2	Breaches	18
4.12.3	Dispute Resolution.....	18
5.	Related Policies, Strategies and Legislation.....	18
6.	Council Plan.....	18
7.	Management and Review	19
8.	Consultation	19
9.	Human Rights Charter.....	19
	Appendix 1. Exemptions	20

1. Purpose

The purpose of the Procurement Policy (Policy) is to:

- outline Council's procurement principles
- provide guidance on expected ethical behavior in procurement processes
- demonstrate how Council supports the local economy, sustainability and social awareness through its procurement practices
- ensure consistency and control over procurement activities
- demonstrate to rate payers how value for money is achieved
- provide limits for purchasing, tendering and receiving funds on behalf of Council
- contribute to achieving Council's Strategic Objectives.

2. Rationale

This Procurement Policy is made under Section 108 of the [Local Government Act 2020 \(the Act\)](#).

The Act requires each council to:

1. Prepare and adopt a procurement policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services and carrying out of works by the Council; and
2. review its procurement policy at least once during each 4-year term of the Council.

3. Scope

This Policy applies to all procurement activities of Council and is binding upon Councillors, Council officers and temporary employees, contractors and consultants while engaged by Council.

It is recognised this will enhance achievement of the Council's objectives such as sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, leading to a better result in the provision of goods, services and works for the benefit of the community and rate payers.

This Policy provides direction on the conduct of procurement activities throughout the sourcing and management phases. It also covers the general procurement framework but does not extend to the related accounts payable processes.

The Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

Treatment of GST – all monetary values stated in the policy exclude GST unless specifically stated.

4. Policy

4.1 Governance & Ethics

4.1.1 Good Governance

Council shall establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made by Council.

Council will conduct its procurement activities in an open, transparent and ethical manner with demonstrated integrity, fairness and accountability that meets or exceeds expected ethical standards and all relevant legal requirements

4.1.2 Service Performance Principles

Council will apply the following fundamental service performance principles to every procurement process irrespective of monetary value or complexity.

This Policy is consistent with the requirements of S108(2) of *the Act* and will:

- Promote open and fair competition and provide Value for Money;
- Provide clear guidelines to the Council to allow consistency and control over procurement activities;
- Demonstrate accountability to ratepayers and residents;
- Provide guidance on ethical behaviour in public sector procurement;
- Demonstrate the application of best practice in procurement activities;
- Demonstrate the consideration of sustainability in procurement with respect to social, economic and environmental factors;
- Increase the probability of obtaining the best outcome for the municipal community when procuring goods and services; and delivering works, and
- Promote collaborative procurement.

These objectives will be achieved by requiring that the Council's contracting, purchasing and contract management activities:

- Support the Council's corporate strategies, aims and objectives;
- Span the whole life cycle of an acquisition and take sustainability considerations into account;
- Achieve demonstrable Value for Money;
- Are conducted in, and demonstrate, an impartial, fair and ethical manner;
- Seek continual improvement through innovative and technological initiatives, and
- Generate and support Local Business through inclusion wherever practicable.

4.1.3 Conduct of Councillors and Council Employees

Councillors and Council employees shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:

- comply with the relevant legislation, regulation and guidelines including the *Act*, Council Codes of Conduct (Councillor and Employee) and this Procurement Policy
- treat all individuals or organisations involved in procurement processes fairly
- encourage fair and open competition while seeking value for money and efficiency
- try to minimise the cost of participating in procurement processes

Procurement Policy – 2021-09

- protect commercial in confidence material
- act honestly and be accountable
- manage and declare conflicts of interest (refer to section 5.1.7)
- not ask for or accept financial or other benefits from potential, current or past suppliers/business partners for performing official duties
- respond to reasonable requests for information or advice without delay and ensure equitable distribution of information for all participants.

4.1.4 Council expectations of participants in procurement processes and/or suppliers

Council has the following expectations regarding the behaviour of participants in procurement processes and/or suppliers:

- comply with the conditions and requirements stated in Council's procurement documents
- comply with legal obligations including industrial relations, security of payment and occupational health and safety obligations
- respect the obligation of Councillors and staff to comply with relevant legislation, regulation and guidelines including the Act, Council's Code of Conduct and this Procurement Policy.
- not engage in collusive practices. Act with integrity and openness and respond to reasonable requests for advice and information
- not offer Councillors or staff financial inducements or any gifts or other benefits which may lead to, or be seen as leading to, an unfair advantage in dealings with Council
- ensure business and supply chain practices are conducted in an honest, ethical and safe manner.

4.1.5 Modern Slavery

Council is committed to conducting business responsibly and ethically and to ensuring that our supply chains are free from any form of slavery. Council rejects any and all forms of modern slavery which can take the form of unpaid or underpaid servitude, human trafficking and forced labour. Participants in the procurement process and/ or suppliers must take reasonable steps to identify, assess and address risks of modern slavery practices.

If Modern Slavery practices become apparent at any point by Council or one of Council's suppliers all reasonable action must be taken to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.

4.1.6 Gifts and Hospitality

A Councillor or member of council staff must not, for themselves or others, seek, request or solicit gifts. All gift offers, whether accepted or not, must be declared in accordance with Council policies. Bribes and inducements must be reported to the Independent Board-based Anti-corruption Commission.

Procurement Policy – 2021-09

4.1.7 Conflict of Interest

Anyone participating in a procurement evaluation process is required to:

1. Avoid conflicts of interest whether general or material between their official duties and their private interests.
2. Declare whether or not they have an interest (general or material) by completing the Conflict of Interest Declaration Form.
3. Act in accordance with legislated responsibilities, Council's Governance Rules and other policies in regards to conflict of interest situations.

If an interest is declared, the Council employees manager or (if applicable) the Evaluation Team Chair, will determine how best to manage the interest. Depending on the significance of the declared interest, the Council employee may be required to take no further part in the process, to undertake a reduced role or to continue their involvement with their interest known to all others involved in the evaluation process.

4.1.8 Probity

Best Value

Council's procurement decisions will be based on achieving best value for money taking into account all costs of ownership and the acceptability of the solution in terms of fit for purpose and risk.

Probity Advisor

A probity advisor must be used on all procurements where the value exceeds 2 million dollars or where the tender is considered complex or high risk. The Governance and Risk Department must be consulted where appointment of a probity advisor is being considered.

Fair and Honest Dealing

All participants will be treated fairly in an open, transparent and consistent manner without any bias or the perception of bias. Where participants are selected to take part in a procurement process, the selection decision will be impartial, based on value for money considerations and documented.

Procurement processes will be reasonable. The time and cost of participating will be minimised to remove barriers to participation and increase accessibility, particularly for small and medium sized businesses

Council does not tolerate corrupt or improper conduct by its Councillors, employees, agents or, suppliers. People are encouraged to report known or suspected incidences of corrupt or improper conduct to the Director Corporate and Shared Services or direct to either the Independent Broad Based Anti-Corruption Commission (IBAC) or Victorian Ombudsman.

Accountability & Transparency

Procurement processes will be open and transparent. Participants will have equal access to information. Council will provide constructive feedback to participants to build capacity and understanding of Council's procurement and decision making processes.

Procurement activities will be documented, decisions will be made by people with appropriate authorisations and more than one person will be involved in procurement and financial commitment processes.

Confidentiality

Councillors and employees will treat all information contained in responses as commercial-in-confidence. The information will be kept secure and not disclosed to any other participant or third party, or to any person who has no official interest in the procurement process.

Councillors and employees are obliged to protect commercial information by refusing to publicly release or discuss the following:

- information disclosed by organisations in tenders, quotation or during tender negotiations;
- all information that is Commercial in Confidence information; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Discussion with potential suppliers during tender evaluations must not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

4.1.9 Responsible Financial Management

The principle of responsible financial management shall 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 shall be established prior to the commencement of any procurement action for the supply of goods, services or works. 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.

4.2 Sustainable Procurement

4.2.1 Sustainable Procurement Definition

Sustainable procurement involves decision making that has the most positive environmental, social and economic impacts possible across the entire lifecycle of goods, services and works. The United Nations Environment Programme defines sustainable procurement as a “process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves Value for Money on a whole of life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.”

4.2.2 Supporting Local Economic Outcomes

The Council is committed to supporting a viable, healthy and diverse local economy and building the capacity and competitiveness of local businesses. To this end, Council is committed to sourcing goods, services and works locally, where value for money can be demonstrated.

To achieve these local economic objectives, Council will consider the following standards in its procurement processes:

- procurement opportunities up to \$300,000 in value - give preference to suppliers located in the Murrindindi Shire where their price is within 10% of the highest scoring value for money offer, provided they have demonstrated that they can meet Council’s supply requirements with minimal risk.

Procurement Policy – 2021-09

- procurement opportunities \$300,000 and above in value - give preference to suppliers located in the Murrindindi Shire where their price is within 5% of the highest scoring value for money offer, provided they have demonstrated that they can meet Council's supply requirements with minimal risk.
- take into account contributions that suppliers from outside the Shire may make to the local economy when determining best value for money.
- working with local suppliers to ensure they are positioned to participate in tender processes, through awareness raising and capacity building

For example, Council will:

- take reasonable steps to raise awareness within the local economy of open opportunities whilst recognising that businesses should take responsibility for monitoring the market and identifying opportunities
- provide local businesses with access to information regarding procurement processes, requirements and expectations through the Procurement Unit
- host information sessions on bidding and the use of Council's e-Tendering portal
- offer de-briefing sessions with all respondents (upon request) to support them to do better in future procurement processes.

4.2.3 Supporting Environmental Outcomes

Council is committed to reducing its environmental impacts, addressing the threat of climate change and operating in an environmentally responsible manner. Council will encourage the design and use of products and services which have minimal impact on the environment, climate and human health. Assessment of Best Value will include consideration of the environmental impacts and credentials of goods, services, works and suppliers. This includes, but is not limited to, considerations of waste minimisation, energy management, greenhouse gas abatement, natural resource conservation, biodiversity protection, green building and infrastructure design and environmentally sustainable practices. Council will prioritise procuring goods made from recycled materials where the procurement opportunity provides for this.

Within this context Council will consider the following environmental standards in its procurement processes:

- ensuring all procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured
- encouraging waste reduction and resource recovery, including recycling activities
- incorporating energy and resource efficiency in the built environment
- identify, monitor and minimise emissions and explore opportunities to reduce energy consumption
- considering the environmental performance of all suppliers and contractors, and encouraging them to conduct their operations in an environmentally sensitive manner
- considering the life cycle of products to minimise the adverse effects on the environment resulting directly or indirectly from products
- selecting products/services that have minimal effect on the depletion of natural resources and biodiversity

The ability to meet or exceed the above standards **must** be considered in the preparation of specifications and the evaluation of tenders where the contract threshold value is \$300,000 or more.

4.2.4 Supporting Social Outcomes

Council is committed to building stronger communities and meeting social objectives which benefit the municipality and broader society. Council will encourage the design and use of products and services that have been produced to ethical standards and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes. Council's objectives in promoting social outcomes through its procurement practices are to:

- Promote equity, diversity and equal opportunity for all
- Respect human rights, the rule of law and international norms of behaviour.
- Ensure vendors do not exploit workers and provide fair wages, including inclusive business practices
- Improve gender equity
- Supporting economic opportunity and wellbeing for our indigenous community
- Actively seek out and utilize community programs that have social benefit
- Open pathways for meaningful and productive lives

Within this context Council will consider the following social value standards in its procurement processes:

- building and maintaining a strong community by exploring ways to generate local employment (particularly among disadvantaged residents) and further strengthening the local economy
- purchasing ethical and fair-trade goods to support equitable, local, national and international trade
- working with local suppliers to ensure they are positioned to participate in tender processes
- supporting our indigenous community to participate in procurement for goods and service they can supply
- investment in skill development, through training and/or apprenticeships

The ability to meet or exceed the standards detailed in the table above must be considered in the preparation of specifications and the evaluation of tenders where the contract threshold value is \$300,000 or more.

4.3 Procurement Methods and Thresholds

4.3.1 Procurement Methods and Specifications

- All procurement activities must be conducted in accordance with this policy and related, relevant Council policies and procedures.
- All procurement activities are to provide for an audit trail for monitoring and reporting purposes.
- All Council staff must be able to account for all procurement decisions made over the lifecycle of the procurement by the Council and provide feedback on them.

Procurement Policy – 2021-09

Council's methods for purchasing goods, works and services shall be by any of the following methods:

- petty cash;
- corporate credit card;
- purchase order following a quotation process from suppliers for goods or services that represent value for money under directed quotation thresholds;
- under contract following a quotation or tender process;

Specifications used in quotations, tenders and contracts are to support and contribute to the Council's Value for Money objectives. These will be written in accordance with Council's Procurement Guidelines.

4.3.2 Process for Achieving Value for Money (Procurement Thresholds)

The achievement of best price can most easily be demonstrated through highly competitive processes involving a number of participants. However, participating in these processes can be costly and the overarching principle of value for money requires a balance between the time and cost of participating in competitive procurement process and the likely cost benefits of greater competition.

Council's procurement thresholds provide guidance on how this balance can be achieved by setting minimum levels of competition depending on the value of the good, service or works. These are shown in the following table. Levels of competition above these minimum requirements will be considered where it is reasonably likely to generate better value for money.

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services and works in accordance with these thresholds:

Tier	Value (Exclusive of GST)	Procurement Threshold (min requirement)
Tier 1	\$0 - \$10,000	Request a minimum of one verbal quote from a potential supplier. The rationale for selecting the successful respondent to be documented. If the successful response is verbal it must be confirmed by the Council officer via email. For incidental purchases made by Operations staff, up to a maximum of \$200, these must be documented on running sheets with approved vendors. Monthly reconciliations will then be undertaken by Council Accounts Payable officers to confirm and allocate expenditure.
Tier 2	\$10,001 - \$25,000	Minimum one written quote (letter, fax, email, e-Tendering portal) received. The rationale for selecting the successful respondent to be documented. .

Tier	Value (Exclusive of GST)	Procurement Threshold (min requirement)
Tier 3	\$25,001 – \$300,000	<p>A written request (e-Tendering portal) to be issued to a minimum of three potential suppliers. The responses must be in writing and submitted through the e-Tendering portal. The rationale for selecting the successful respondent to be documented, including if less than three responses are received. A formal agreement between parties is required.</p> <p>Entry into procurement management system - mandatory</p>
Tier 4	Over \$300,001	<p>Open and advertised tender process published on the e- Tendering portal. The responses must be in writing and submitted through the e-Tendering portal. The rationale for selecting the successful respondent to be documented. A formal agreement between parties is required.</p> <p>Entry into procurement management system - mandatory</p>

4.3.3 Exemptions from tendering

It is recognised that some procurement opportunities are not suitable to go to market, this can be for various reasons including best value, continuity of service, market constraints or statutory requirements. Council has a list of categories exempt from general publicly advertised tender, quotations and expression of interest requirements (refer to Appendix 1.)

Exemptions applied will be reported to Council on a monthly basis as part of the Scheduled Meeting Agenda.

4.3.4 Procurement Threshold Exemptions

An exemption from a procurement threshold must be clearly documented and formally approved by the Chief Executive Officer or relevant Director. Exemptions from procurement thresholds up to \$300,000 will only be considered in emergency situations or where compliance is either not possible or unlikely to generate better value for money. For instance, it may not be possible or appropriate to meet the minimum levels of competition if the service is highly specialised with very limited providers, or where intellectual property or compatibility issues mean that only one provider or make/model/system is suitable. It may also be inappropriate or impossible to meet minimum levels of competition in urgent or emergency situations.

Exemptions register to be presented to Audit and Risk Committee quarterly for review and noting.

4.3.5 Variations to Council resolution

Where Council has resolved to appoint a contract, a variation up to 10% of the resolution amount may be approved without requiring Council resolution provided the variation:

- Does not exceed \$150,000
- Is within the allocated budget
- Does not change the intended outcome(s) of the contracted works or services
- Is approved by both the relevant Director and the CEO

The need for such a variation would most typically arise where there is an unforeseen need to adjust the works or services required in order to deliver the intended outcome(s) of the works or services, and which have only become apparent after the contract was let.

Where a variation is approved it will be reported to Council as part of quarterly reporting.

4.3.6 Purchasing from Existing Standing Offer or Panel Agreements

Council is committed to adopting efficient work practices and reducing, wherever possible, the time and resources involved in procurement activities whilst also ensuring best value and effective risk management. For this reason, where a panel or standing offer agreement has been established through a competitive and open process, the CEO may set panel or standing offer purchasing thresholds to support purchases through these existing agreements.

The CEO has set the following thresholds for panel or standing offer agreement:

Tier	Value (inclusive of GST)	Procurement Threshold (min requirement)
Level 1	\$0 - \$50,000	Issue a request in writing (letter, fax, email, e-tender) to at least one panel supplier. Response to be in writing. Rationale for selecting successful respondent documented Procurement process over \$20,000 to be entered into electronic contract management system.
Level 2	\$50,001 – \$300,000	Issue a request in writing (via e-tender portal) to a minimum of two suppliers. Responses are to be in writing. Rationale for electing the successful respondent is to be documented. Procurement process to be entered into electronic contract management system.

4.4 Communications

Communications throughout procurement processes need to be controlled to ensure that all participants are treated fairly with equal access to information in an environment where confidentiality is maintained.

Communications regarding opportunities published on the Council's e-Tendering Portal must be lodged through the portal so that all participants have access to the same information.

Communications during an evaluation process must be directed to or come from the Evaluation Chair. Participants will receive written notification of the outcome of procurement processes. Upon request, unsuccessful participants will be provided with constructive feedback on their submission and improvements that could increase competitiveness in future procurement processes.

4.5 Publishing and advertising of Public Tenders

All public tenders will be published via Council's eTendering Portal and will be publicly advertised. Advertising will be appropriate to the offering, at a minimum this will include local papers. Information regarding current tenders will be placed on Council's website.

4.6 Council's Documents and e-Tendering Portal

Council is also strongly focused on making it easy for others to do business with Council. Council will adopt procurement and contract documents that are simple and easy to read in order to remove barriers to participation and increase accessibility, particularly for small and medium sized businesses.

Wherever practicable, Council will release opportunities through its e-Tendering Portal because it enhances:

- openness as the same information is available to all participants simultaneously
- accountability as a system generated audit record is created for each procurement process
- efficiency by removing the need to print and submit hardcopy submissions
- confidentiality as system controls limit access to responses to authorised Council officers only
- communication as the web-based portal provides ongoing and immediate notification of opportunities reducing reliance on local paper advertisements.

Opportunities released through the e-Tendering Portal will need to be responded to through the portal.

Some selective opportunities will continue to be released via email direct to selected suppliers where this represents the most efficient and effective way of seeking and responding to requests.

4.7 Evaluation

Procurement processes where only one response (quote) is sought may be evaluated by a single Council officer. The rationale for accepting or rejecting the response must be documented. If it is accepted, the person raising the purchase order must not be the same person that approves the purchase order. This separation of roles is critical to Council's system of financial control.

Procurement processes where more than one response has been sought must be evaluated by an evaluation team of at least three people, one of whom is appointed as the evaluation team Chair.

The Evaluation Chair is responsible for managing the evaluation process and ensuring a fair and consistent evaluation.

Following the completion of the evaluation process, the Evaluation Chair will document the recommendation for the endorsement of the evaluation team. The final decision on whether to accept a response rests with the Council officer with delegated authority to commit the funds.

Evaluation Criteria

The Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money:

- Mandatory Compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- Tendered price – Mandatory
- Capacity of the Tenderer to provide the goods and/or services and/or works;
- Capability of the Tenderer to provide the goods and/or services and/or works; and
- Demonstration of sustainability.

4.8 Procurement Control Arrangements

4.8.1 Risk Management

Risk management will be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of goods, works and services.

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

- more than one person is involved in and responsible for a transaction end to end
- transparency in the procurement process
- 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.

Council's Risk Management and Internal Controls will be implemented in accordance with Council's Policies and Procurement Guidelines.

4.8.2 Cumulative Spend

Council is committed to strategic procurement practices that take into account the cumulative spend on similar goods and services over time. Council recognises that the cumulative spend of small value or larger value frequent purchases can quickly amount to significant sums and create opportunities for savings through strategic procurement practices.

For this reason, Council monitors cumulative spend with suppliers to identify strategic procurement opportunities such as bundling and consolidated supply contracts. Council also requires staff to have a long-term view of regular and/or ad hoc procurement processes and consider cumulative spend and savings opportunities.

4.8.3 Approval to Release Procurement Documents

Procurement documents are not to be released unless there is an approved budget or source of funds and a firm commitment, intention and capacity to proceed.

The approving Council officer and the appropriate department manager, are also required to check that the procurement documents including specifications:

- are clear, unambiguous and easily understood
- include a sufficiently detailed specification that can easily be costed and is consistent with the scope of the approved budget or source of funds

Procurement Policy – 2021-09

- identify reasonable and relevant criteria upon which responses will be evaluated
- are not overly onerous and do not include requirements that unnecessarily limit who can respond or create barriers to participation.

4.8.4 Late Submissions to Tenders

Council does not accept late submissions to tenders unless there are exceptional circumstances that prevent a response from being lodged on time and only where late acceptance will not:

- cause unfair advantage
- compromise the integrity and competitiveness of the process.

'Exceptional circumstances' are defined as those beyond the control of the respondent and/or could not have been prevented. Examples include: natural disaster, electricity black out, cyber-crime, e- Tendering Portal system failure or interruption, or mishandling by a Council officer.

4.8.5 Authority to Purchase

A purchase order must be created and approved prior to committing expenditure on behalf of council for the provision of services, goods or works in accordance with council's procurement thresholds, with the following exemptions:

Utilities – power, water etc
Vehicle Registration
Industrial Special Risk and Motor Vehicle
Insurance
Personal expense reimbursement

Suppliers, contractors and Council staff must not request, encourage or facilitate the prohibited act of 'order splitting' (splitting one order into a succession of orders) for the purpose of obtaining the goods or services under a financial delegation level or procurement delegation level.

4.9 Emergency Procurement

In accordance with the Murrindindi Shire Municipal Emergency Management Plan (MEMP), during an emergency the Municipal Emergency Management Officer (MEMO) will have the same financial delegation as the Chief Executive Officer (CEO) and the power to suspend parts of the Policy where required to enable a timely emergency response. The decision to suspend parts of the Policy must be recorded and reported to Council as soon as reasonably practicable.

The Municipal Emergency Resource Officer must ensure that procurement processes comply with and take into account value for money, accountability and probity to the extent possible given the severity of the emergency. As a minimum, the Municipal Emergency Resource Officer will be required to report to Council details regarding Council's suppliers and the value of goods, services and works supplied.

4.10 Collaborative Procurement

In accordance with section 108(c) of *the Act*, the Council will first give consideration to collaboration with other Councils and public bodies or utilise Collaborative Procurement Arrangements, when procuring goods, services and works in order to take advantage of economies of scale.

Council Staff must consider any opportunities for Collaborative Procurement in relation to a procurement process undertaken by Council, including:

- The nature of those opportunities, if any, and the councils or public bodies with which they are available; and
- Why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

Furthermore, Council may collaborate with other Councils or other bodies such as MAV Procurement or Procurement Australasia to procure goods, services or works, or utilise existing Collaborative Procurement Arrangements for the procurement of goods, services or works established through a public tender process where it provides an advantageous, Value for Money outcome for the Council.

4.11 Build and Maintain Supply Relationships

Council recognises to achieve value for money, 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 value for money outcomes in terms of time, expertise, cost, value and outcome.

4.11.1 Developing and Managing Suppliers

Developing and managing suppliers is essential to achieving a competitive market capable of delivering the Councils services and works requirements.

Council needs to interact with the market and our suppliers to understand their views and what enables and encourages diverse parts of the market to bid for work with the Council. Council aims to develop relationships with suppliers that creates mutually advantageous, flexible, and long-term relations based on the quality of performance and financial savings.

Council may establish Panel arrangements (referred to in section 5.4.6) where rates contracts for goods, services or works are appointed to facilitate aggregated spends under contract.

Subsequently quotes to appoint from the Panel on job-by-job basis promotes competition and value for money.

4.11.2 Contract Management

The purpose of contract management is to ensure that the 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 monitoring and achieving the responsibilities and obligations of both parties' under the contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions; and
- adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

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 the Council receives Value for Money.

Procurement Policy – 2021-09

4.11.3 Performance Measures

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

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 programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories

4.12 Discipline and Disputes

4.12.1 Complaints

General feedback and complaints regarding Council's procurement processes and procedures are taken seriously and will be handled fairly and promptly in a respectful manner. Feedback and complaints should be directed to the Manager Governance and Risk

4.12.2 Breaches

Breaches of this policy may lead to disciplinary action in accordance with Councils Policies and Enterprise Agreement.

4.12.3 Dispute Resolution

All Council contracts must incorporate dispute management and alternative dispute resolution provisions to minimise or avoid protracted disputes and litigation.

5. Related Policies, Strategies and Legislation

The *Local Government Act 2020* (previously *Local Government Act 1989*)

Capital Works Expenditure Policy

Customer Feedback and Complaints Policy

Privacy Policy

Corporate Credit Card Policy

Councillor Code of Conduct

Employee Conduct (Code of Conduct) Policy

Fraud and Corruption Control Policy

Information Management (IM) Policy

Enterprise Risk Management Policy

Environment Policy

6. Council Plan

This Policy is consistent with the Council Plan 2017-2021 Our Promise strategic objective to work in collaboration with our communities to deliver the best possible outcomes in all that we do.

This Policy is also consistent with the Draft Council Plan 2021-2025 (due for adoption October 2021) Strategic Objectives:

- Our Protected Environment – “To protect and enhance our natural environment, supporting environmental sustainability, community resilience, innovation and adaptation to climate change to achieve net-zero emissions by 2035.”
- Transparent, Inclusive and Accountable – “To ensure our services, people and systems deliver the best possible outcomes for our communities now and in the future.”

7. Management and Review

The Executive Management Team is responsible for monitoring compliance with this Policy. The Governance and Risk Department will prepare reports to assist management in carrying out that responsibility.

8. Consultation

The review of this Policy did not require external community consultation.

9. Human Rights Charter

This Policy has been developed with consideration of the requirements under the Charter of Human Rights and Responsibilities.

Appendix 1. Exemptions

Exemption Name	Explanation, limitations, responsibilities and approvals
1. A contract made because of genuine emergency or hardship	Where the Council has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster, declared emergency, etc.)
2. A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party	<p>This general exemption allows engagements:</p> <ol style="list-style-type: none"> 1. With another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; and/or 2. In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA).
3. Extension of contracts while Council is at market	<p>Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected.</p> <p>This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</p>
4. Professional services	Legal Services. Insurance.
5. Novated Contracts	Where the initial contract was entered into in compliance with <i>the Act</i> and due diligence has been undertaken in respect to the new party.
6. Information technology resellers and software developers	Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
7. Regional Waste and Resource Recovery Groups	Situations where a Regional Waste and Resource Recovery Group constituted under the <i>Environment Protection Act 1970</i> had already conducted a public tender for and on behalf of its member councils.
8. Statutory Compulsory Monopoly Insurance Schemes	Motor vehicle compulsory third party WorkCover
9. Operating Leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.

Exemption Name	Explanation, limitations, responsibilities and approvals
10. Other specific Council exemptions	Nil.