

<b>Title:</b>	<b>Procurement Policy</b>
<b>Type:</b>	<b>Council</b>
<b>Adopted:</b>	<b>27 May 2020</b>
<b>File No:</b>	20/28228
<b>Attachments:</b>	Procurement Guidelines 16/2303

## 1. Purpose

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

- outline Council's procurement principles
- provide guidance on expected ethical behaviour in procurement processes
- demonstrate how Council supports the local economy through its procurement practices
- ensure consistency and control over procurement activities
- demonstrate to rate payers how value for money is achieved.

## 2. Rationale

The *Local Government Act 2020* (previously the *Local Government Act 1989- section 186A*) (the *Act*) requires the Council to prepare, approve and comply with a procurement policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Council. The Council must review its Policy annually and make it available for public inspection including on Council's website.

## 3. Scope

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

## 4. Definitions

Nil

## 5. Policy

### 5.1 Procurement Principles

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

#### Best Value for Money

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. Section 186 of the *Act* provides that Council is not required to accept the lowest price response or any response.

#### 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.

## Procurement

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

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.

### Open and Transparent

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.

### Confidentiality

Councillors and staff 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 staff will protect commercial information by refusing to publicly release or discuss commercial in confidence information provided in response to a procurement process.

## **5.2 Expected Ethical Behaviour**

### What is Expected from Council

Council will:

- comply with the relevant legislation, regulation and guidelines including the Act, Council's Code of Conduct 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
- protect commercial in confidence material
- act honestly and be accountable
- avoid and manage situations where private interests conflict with public duty
- disclose any situations that involve, or could be perceived to involve, a conflict of interest
- 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.

### What Council Expects From 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.

### **5.3 Supporting the Local Economy**

The Council is committed to buying from suppliers based in the Murrindindi Shire and will it has been Council's policy to give preference to these suppliers where their price is within 5% of the highest scoring value for money offer and they have demonstrated that they can meet Council's requirements with minimal risk.

In recognition of the adverse impacts of the COVID-19 pandemic on local businesses and the local economy, including in adjoining rural areas, Council will temporarily increase the above price difference threshold as follows:

- for suppliers based in the Murrindindi Shire to 10% of the highest scoring value for money offer
- for suppliers based in the Mitchell, Strathbogie and Mansfield Shires to 7.5% of the highest scoring value for money offer.

These temporary provisions will only apply where the local suppliers have demonstrated that they can meet Council's requirements with minimal risk. Suppliers based in Mitchell, Strathbogie and Mansfield Shires will only be considered where a Murrindindi Shire based supplier has not met Council's requirements or is not within 10% of the highest scoring value.

These temporary provisions will remain for the period from the adoption of this Policy to June 30 2021 or other date as determined by Council upon review of this Policy.

Council may also take into account contributions that suppliers from outside the Shire may make to the local economy when determining best value for money.

Council is also committed to increasing opportunities for local suppliers to gain Council work and building the capacity and competitiveness of local businesses. For instance, 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

Responsible Officer: Manager Governance and Risk

27 May 2020

TRIM Reference:

## Procurement

- offer face to face de-briefing sessions with unsuccessful respondents to support them to do better in future procurement processes.

Council is also strongly focussed on making it easy to do business with Council. For instance, 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. Council will also use its online e-Tendering portal wherever possible because it makes it easier and faster for local businesses to get information and learn about opportunities and engage with Council. The e-Tendering portal also reduces costs and streamlines procurement processes for Council and participants.

#### 5.4 Supporting Improved Sustainability Outcomes

Council is committed to strengthening the environmental sustainability of our communities, protecting our natural environment and reducing resource consumption. Furthermore in line with the direction of the Circular Economy Policy to increase the use of recyclable material, Council will seek new opportunities to purchase products containing recycled material (such as recycled printing paper) and use recycled materials to build road, public infrastructure and delivery of services. For this reason, Council's procurement practices will take into account the environmental consequences of procurement decisions and may give preference to sustainable products and/or services that are fit for purpose and provide value for money.

Sustainable products and/or services are:

- energy and resource efficient
- made with minimum use of virgin materials
- made with maximum post-consumer/recycled materials
- non-polluting or reduce pollution
- durable, easily upgraded and repairable
- reusable and recyclable.

#### 5.5 Procurement Control Arrangements

##### 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:

- 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
- 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.

### Council's e-Tendering Portal

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.

### 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.

### Conflict of Interest

Anyone participating in a procurement evaluation process is required to declare any interest they may have in the outcome of the evaluation by completing the Conflict of Interest Declaration Form. For clarity, this includes any actual, potential and/or perceived direct or indirect interest that might reasonably be thought to be in conflict with their role.

If an interest is declared, the Council officer's 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 officer 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.

### Evaluation Process

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, confidentiality and the appropriate management of conflicts of interest.

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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.

### 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.

## 5.6 Emergency Procurement

In accordance with the Murrindindi Shire Municipal Emergency Management Plan (MEMP), during an emergency the Municipal Emergency Resource Officer 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 the *Emergency Management Act 1986* 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.

## 5.7 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.

Tier	Value (inclusive of GST)	Procurement Threshold (min requirement)
Tier 1	\$0 - \$10,000	<p>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.</p> <p>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.</p>



Tier	Value (inclusive of GST)	Procurement Threshold (min requirement)
Tier 2	\$10,001 - \$20,000	A written request (letter, fax, email, e-Tendering portal) to be issued to a minimum of two potential suppliers. The responses can be written only.  The rationale for selecting the successful respondent to be documented, including if only one response is received.
Tier 3	\$20,001 – \$150,000 (goods and services)/ \$200,000 (works)	A written request (letter, fax, email, e-Tendering portal) to be issued to a minimum of three potential suppliers. 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.
Tier 4	Over \$150,000 (goods and services)/ \$200,000 (works)	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.

### 5.8 Procurement Threshold Exemptions (Tiers 1, 2, and 3)

An exemption from the procurement threshold must be clearly documented and formally approved by the Chief Executive Officer or relevant Director. Exemptions from procurement thresholds up to \$150,000 (goods and services) and \$200,000 (works) 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.

### 5.9 Procurement Threshold Exemptions (Tier 4 only)

For procurements worth \$150,000 (goods and services) and \$200,000 (works) or more, the *Act* requires Council to undertake an open and advertised procurement process unless an exemption under Section 186(5) is applicable.

Section 186(5) allows for the following exemptions, if Council:

- has resolved that a contract must be entered into because of an emergency
- has entered into an agency arrangement with another Council or third party agent that has otherwise complied with the *Act*
- has been granted a Ministerial exemption or is making use of a Ministerial Approved Arrangement (e.g. use of State Purchase and Whole of Victorian Government Contracts) or
- is entering into a type of contract which is exempt (e.g. legal services, loans, purchase of land, sale of goods).

### 5.10 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)
Tier 1	\$0 - \$50,000	Issue a request in writing (letter, fax, email) to at least one panel supplier. Response can be verbal or written. Rationale for selecting successful respondent documented. If successful response is verbal it must be confirmed by the Council officer via email.
Tier 2	\$50,001 - \$150,000 (Goods & Services) / \$200,000 (works)	Issue a request in writing (letter, fax, email, 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.

### 5.11 Order Splitting

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.

### 5.12 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.

### 5.13 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

## 6. 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
- Financial Delegations Policy
- Fraud and Corruption Control Policy
- Information Management (IM) Policy
- Enterprise Risk Management Policy

## 7. Council Plan

This report 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.



**8. Management and Review**

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

This Policy will be reviewed at least annually by Council.

**9. Consultation**

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

**10. Human Rights Charter**

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