



# Procurement Policy

Responsible Officer	Adoption Date	December 2021
Procurement Specialist	Approved By	Council
Authorising Officer	Review Date	December 2024
Director Corporate Services	Policy Type	Major Council Policy

## 1. Procurement Policy

This Procurement Policy is made under Section 108 of the Local Government Act 2020 (the Act). The Act requires the Rural City of Wangaratta (Council) to:

- adopt a Procurement Policy;
- review the Procurement Policy once during each 4-year term of the Council; and
- nominate a threshold value for public tenders or expressions of interests.

### 1.1 Purpose

The purpose of this Policy is to:

- provide guidance to Council to allow consistency and good governance over procurement activities;
- provide guidance on ethical behaviour in Council procurement activities;
- ensure the application of best practice in procurement activities;
- increase the probability of obtaining value for money when purchasing goods, services or works; and
- demonstrate accountability and transparency to rate payers through open and fair competition.

### 1.2 Scope

This Policy applies to all Council procurement activities and is binding upon Councillors and Council staff undertaking procurement on behalf of Council.

## 2. Governance and Ethics

### 2.1 Governance

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

Council's procurement structure should:

- ensure flexibility to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
- ensure that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
- encourage competition; and
- incorporate strategies for managing risks associated with all procurements and be applied consistently.

### 2.2 Standards

Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act,
- Council's policies,
- Council's Code of Conduct,
- Local Government Procurement Best Practice Guidelines
- Other relevant legislative requirements such as but not limited to the Trade Practices Act, Goods Act, and the Environmental Protection Act.

### 2.3 Responsible Financial Management

The principles of responsible financial management shall be applied to all procurement activities.

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, works or services.

Council funds must be used efficiently and effectively to procure goods, works and services 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.

Council staff must not authorise the expenditure of funds in excess of their financial delegations.

### 2.4 Ethics Requirement

Council's Procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny.

## 2.5 Conduct of Councillors and Council Staff

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

- treat potential and existing suppliers with equality and fairness;
- present the highest standards of professionalism and probity;
- provide all suppliers and tenderers with the same information and equal opportunity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information; and
- be able to account for all decisions and provide feedback on them.

## 2.6 Conflict of Interest

Councillors and Council staff shall, at all times avoid situations in which private interests' conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff involved in the procurement process, in particular preparing tender documentation, including writing tender specifications, tender opening, and tender evaluation panels, must:

- **Avoid** conflicts, whether actual, potential, or perceived, arising between their official duties and their private interests. Private interests include the financial and other interests of Councillors and Council Staff, plus their relatives and close associates
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise, Council Staff must make their manager and the chairperson of the relevant tender assessment panel or board aware and allow them to decide whether the officer should continue to be involved in the specific procurement activity
- **Observe** prevailing Council policy and guidelines on how to prevent or deal with conflict of interest situations; and not utilise any procurement related information whether or not for personal gain.

## 2.7 Probity – Open and fair competition

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote. Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

## 2.8 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. Bribes and inducements must be reported to the Independent Board-based Anti-corruption Commission.

## 2.9 Disclosure of Information

Commercial in-confidence information received by the Council must not be disclosed and is to be stored in a Council's information management secure business system.

Councillors and Council staff are obliged to protect information, by refusing to 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.

# 3. Procurement Methods, Thresholds and Requirements

## 3.1 Procurement Methods

Council maintains consistency in the approach to procurement across the whole organisation through coherent frameworks, policies and procedures. The benefits of the purchase are weighted to achieve the optimum result for the Council and local community. Council is not required to accept the lowest cost. Instead, Council must consider issues of quality, social impact, value for money, risk and the accessibility of the service and other factors relevant to both the overall objectives of the individual procurement.

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.

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;

Permitted exemptions as detailed in 3.4 Exemptions from Tendering or other arrangements

### 3.2 Contract Threshold Value

The Act requires Council to nominate a contract value above which the Council must invite a tender or seek an expression of interest. Council's nominated public tender threshold value is **\$250,000**.

For procurement activities under \$250,000, the procurement methodology and thresholds in Appendix A will apply.

All monetary values stated in this policy exclude GST except if stated otherwise.

### 3.3 Tenders

Procurements with an estimated expenditure of \$250,000 or more, must be undertaken by tender unless a valid exemption is in place as per 3.4 Exemptions from Public Tendering.

The tender thresholds shall apply to aggregated supplier expenditure for a period of no less than two financial years.

Should Council consider that the characteristics of the market would lead to a better result for Council, public tenders may be called where the estimated expenditure is less than \$250,000.

### 3.4 Exemptions from Public Tendering

The following circumstances identified are exempt from public tender, proposal, quote or expression of interest process.

	Exemption Name	Explanation
1	Genuine Emergency	Where it is determined that the procurement must be entered into because of an emergency (e.g. to provide an immediate response to a natural disaster, being a sudden unforeseen happening).
2	Collaborative engagement	Contracts and arrangements established by another government entity, local authority or group purchasing scheme. E.g. Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA) etc.  This includes contracts covering Federal, State or Local Government Purchasing.  Contract extensions granted for the purpose of aligning expiry dates for collaborative engagements.
3	Novated Contracts	Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken upon the new party.
4	Information technology -software renewals	Allows for Council to renew software licences for existing programs.

<b>5</b>	Extensions of contracts while at market	Allows for short term contract extensions up to six months if a tender process has begun to replace an existing agreement. E.g. Extensions may be required when negotiations are taking longer than anticipated.
<b>6</b>	Contract Variations	Where a variation occurs the delegation is not defined by the value of the variation, but by the value of the whole contract. The Chief Executive Officer (CEO) or an officer with a sub-delegation from the CEO may vary a contract to the limit of their delegation.
<b>7</b>	Professional Services unsuitable for tendering	Legal Services Insurance

### **3.4.1 Non-conformance with Council's Procurement Guidelines under Public Threshold Limit**

Council staff are required to obtain approval for non-conformance to Council's Procurement Guidelines in advance of any quote or tender being approved. These non-conformances will be registered to enable continual review and ensure Council's policy and procedures remain fit for purpose.

### **3.5 Publishing and advertising of Public Tenders**

All public tenders will be published via Council's eTendering Portal and will be advertised in the local newspaper. Information regarding current tenders will be placed on Council's website.

### **3.6 Role of Specifications**

Specifications used in quotations, tenders and contracts are to support and contribute to the Council's Value for Money objectives through being written in a manner that:

- clearly defines Council's requirements;
- encourages the use of standard products;
- ensures impartiality and objectivity;
- encourage sustainable options;
- eliminates unnecessarily stringent requirements

### **3.7 Evaluation Process**

A tender evaluation panel will be established to evaluate each tender submission against the tender's selection criteria. Tender evaluation panels can include external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 people.

A detailed Tender Evaluation Plan shall be developed and approved. Amongst other things, this involves the establishment of detailed evaluation criteria and the application of a pre-approved

and robust weighted scoring system. The Tender Evaluation Plan should be completed and signed off prior to the tender being issued.

### **3.8 Evaluation Criteria**

The following evaluation criteria will be applied in determining whether a proposed contract provides value for money:

- Mandatory Compliance criteria;
- Tendered price;
- Capacity of the Tenderer;
- Capability of the Tenderer;
- Achievement against Sustainable Procurement Objectives

### **3.9 Contract Terms**

All contractual relationships must be documented in writing based on standard terms and conditions. Where this is not possible, approval must be obtained from the appropriate member of Council staff listed in the Council Delegations.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose Council to risk and thus must be authorised by the appropriate member of Council staff listed in the Council Delegations.

### **3.10 Collaborative Procurement**

Under Section 108 of the Act, Council will seek to collaborate with other Councils and public bodies in its procurements to take advantage of economies of scale.

Under Section 109 of the Act the CEO must ensure any Council report that recommends entering a procurement arrangement, sets out information relating to opportunities for collaborative procurement, 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 with that procurement process.

Council staff must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council.

When collaborating with other councils and public bodies, Council will do so in accordance with the following:

- Prospective contracts with a value of \$500,000 or greater for supply of goods, services or works will be shared with councils in the Hume Region for collaboration consideration. The list of prospective contracts will be shared annually in advance of the next budget year;

- Prospective contracts with a value of less than \$500,000 can be referred to the councils in the Hume Region for collaboration consideration where operational efficiencies are anticipated to be achieved;
- A Heads of Agreement will be established should a collaborative procurement opportunity exist with two or more Hume Region councils. The Heads of Agreement will give authority for the Lead Council to act as Procuring Agent for participating councils. Each of the participating councils will be able to enter into a contract with the preferred service provider identified through the collaborative procurement process. Alternatively, a Joinder Agreement will allow one or more of the Hume Region councils to join an existing contract – this may be beneficial where there are different contract periods or decision making and authorisation processes of councils in the Hume Region;
- Each participating council must be involved in:
  - the initial decision to undertake the procurement (unless subsequently joining an existing contract under a Joinder Agreement);
  - preparation of, and agreement to, the specifications;
  - ensuring probity for the procurement (see Section 2.7); and
  - deciding which tenders to accept or reject.

## 4 Delegations

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

### 4.1 Council Staff

Council must maintain a documented scheme of procurement delegations, identifying the Council staff authorised to make such procurement commitments in respect of material, goods, works and services on behalf of the Council and their respective delegations contained in Financial Delegations policies

- Acceptance of tenders
- Acceptance of quotes
- Contract term extensions
- Contract variations (non-financial)
- Contract variations (financial)
- Appointment to register of pre-qualified suppliers

### 4.2 Delegations Reserved for the Council

Commitments and processes which exceed the CEO's delegation and which must be approved by Council resolution are:

- Tender recommendations and Contract approval for expenditure over \$500,000 in value; and
- Variations and contract term extensions above \$500,000 in value where authority hasn't been given to the CEO to act.

## 5 Internal control and risk management

### 5.1 Internal Controls

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; and
- systems are in place for appropriate monitoring and performance measurement.

### 5.2 Risk Management

Risk management is to 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 minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- requiring security where appropriate;
- referring specifications to relevant experts;
- requiring contractual agreement before allowing the commencement of work;
- use of or reference to relevant Australian Standards (or equivalent); and
- effectively managing the contract including monitoring and enforcing performance.

### 5.3 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.

## 5.4 Performance Measures and Continuous Improvement

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.

## 5.5 Dispute Resolution

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

# 6. Sustainable Procurement Objectives

Council's procurement activities will be undertaken having regard to the below Sustainable Procurement objectives. The ability to meet or exceed the standards detailed in the table below must be considered in the preparation of specifications and the evaluation of tenders where the contract threshold value is \$250,000 or more (see section 3.2).

Council can choose to apply these standards for all other procurement activities.

Objectives	Standards to be applied in pursuit of objectives
Economic prosperity	examining the options for collaborative procurements
	using aggregated contracts where appropriate
	encouraging effective use of open and fair competition
	developing, implementing, and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle
	working with suppliers to create relationships that are professional and productive and are appropriate to the value and importance of the goods, services and works being acquired
Environmental sustainability	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 basic life cycle analysis 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
Enhancing social value	building and maintaining a strong community by exploring ways to generate local employment 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
	investment in skill development, through training and/or apprenticeships

## 7. 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.

### 7.1 Developing and Managing Suppliers

Developing and managing suppliers is essential to achieving a competitive market capable of delivering the Council’s 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 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.

### 7.2 Supply Market Development

A wide range of suppliers should be encouraged to compete for Council work. The types of organisations offering business diversity include:

- Local businesses
- Green suppliers
- Small to medium sized enterprises (SME's)

- Social enterprises
- Ethnic and minority business
- Voluntary and community organisations

## 8. Breaches

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

## 9. Definitions and Abbreviations

Term	Definition
Act	Local Government Act 2020
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies, and process information.
Contract Management	The process that ensures both parties to a contract that fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff	Includes full-time and part-time Council Staff, and temporary employees, contractors and consultants while engaged by the Council.
Environmentally Sustainable	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Expression of Interest (EOI)	An invitation for persons to submit an EOI for the provision of the Goods and/or Services generally set out in the overview of requirements contained in the document. This Invitation is not an offer or a contract
Green Suppliers	Suppliers who can demonstrate they supply low environmental impact products or services, and have sustainable methods of production / service
Local supplier	Business located within a 100km radius of Wangaratta Rural City Council
MAV	Municipal Association of Victoria
OH&S	Occupational Health & Safety

Panel	A panel arrangement is a tool for the procurement of goods or services regularly acquired by entities. In a panel arrangement, a number of suppliers are selected, each of which are able to supply identified goods or services to an entity.
Probity	Within Local Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Procurement	Procurement is the whole process of acquisition of external goods, services and works.
Relatives or Close Associates include	Family members (children, siblings, parents, cousins) Business partners Close friends
Social Procurement	Social Procurement uses Procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.
Tender Process	The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Value for Money	Value for money in Procurement is about selecting the supply of goods, services and works considering both cost and non-cost factors including:  contribution to the advancement of the Council's priorities; fitness for purpose; quality; service; support; and cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, and maintaining along with end-of-life costs associated with goods, services or works

## 10. References

### 10.1 Legislation

- Victorian Local Government Act 2020
- Competition and Consumer Act 2010
- Australian Standards

## 10.2 Internal Policies & Documents

- Councillor code of conduct policy
- Councillor gift policy
- Contract Management Manual
- Fraud and corruption control policy
- Gift, benefits, and hospitality policy
- Instrument of sub-delegation
- Information records management policy
- OH&S Purchasing risk assessment procedure
- Procurement guidelines and procedures
- Risk management policy

## 10.3 External Reference Material

- Procurement Best Practice Guidelines
- MAV Model procurement policy

## 11. Review

In accordance with the Act, Council must review and approve the Procurement Policy, at least once in each Council term. Any change or update which materially impacts and/or alters this policy must be approved by Council.

## Appendix A

Council will invite tenders, proposals, quotes and expressions of interest for goods, service and works in accordance with the thresholds listed below:

<b>Procurement threshold</b>	<b>Procurement methodology</b>
\$0 - \$1,000	One verbal quote
\$1,000.01 - \$10,000	Obtain at least one written quote
\$10,000.01 - \$50,000	Obtain at least three written quotes or one quote from Panel
\$50,000.01 - \$250,000	Obtain at least three written quotes using Council's eTendering Portal or at least one quote from Panel
> \$250,000	Public tender process using Council's eTendering Portal or at least one quote from Panel
> \$500,000	Collaborative procurement opportunities explored