



Procurement Policy 2022

Responsible Officer	Adoption Date	Click here to enter a date.
Procurement Specialist		
Authorising Officer	Approved By	Council
Director Corporate & Leisure	Review Date	Click here to enter a date.
	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 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 for the purchase of goods, services or works. It is binding upon Councillors, and upon 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, services and works 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 Codes of Conduct,
- Local Government Procurement Best Practice Guidelines
- Other relevant legislative requirements such as but not limited to the **Competition and Consumer Act 2010** (Cth), **Goods Act 1958** and **Environment Protection Act 2017** and **Child Wellbeing and Safety Act 2005**, as well as the **Child Safe Standards**.

2.3 Responsible Financial Management

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

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.

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 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 to arise;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information, such as contract prices and other sensitive information, unless compelled by law to disclose it; 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 (especially when 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 evaluation panel or board aware and allow them to decide whether the staff member 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 for personal gain or any other improper purpose.

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 that it can withstand public scrutiny.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, unless disclosure is compelled by law (e.g. a subpoena). This is particularly so in respect of commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing, and product information.

2.8 Gifts and Hospitality

A Councillor and members 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 unless disclosure is compelled by law. It 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 unless compelled by law to do so:

- 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.

2.10 Child Safe Standards

Council is committed to ensuring the safety of children and young people by creating and maintaining a child safe organisation.

For procurement activities that involve contact with children across any Council-owned or run facility, then, having regard to the nature of the services, a Working With Children's Certificate will be required from the prospective service provider, and the procurement specification will require demonstrated arrangements in place to meet Child Safe Standards and compliance to Council's Child Safety and Wellbeing Policy.

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 all other 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 Council and provide feedback on them.

Council's methods for purchasing goods, services and works 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 represents value for money under directed quotation thresholds; or
- 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 Section 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 and Other Competitive Processes

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

	Exemption Name	Explanation
1	Contract made because of Emergency	Where it is determined that the procurement must be entered into because of an emergency, being an emergency due to the actual or imminent occurrence of an event that endangers or threatens to endanger the safety or health of any person, or that destroys or damages, or threatens to destroy or damage, any property,

		or that endangers or threatens to endanger the environment or an element of the environment.
2	Collaborative engagement	Contracts and arrangements established by another government entity, local authority or group purchasing scheme. Eg 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.
5	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.
6	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 CEO or a staff member with a sub-delegation from the CEO may vary a contract to the limit of their delegation.
7	Professional Services unsuitable for tendering	Legal Services Insurance
8	Sole or Select Sourcing	Council may engage with one supplier or a restricted group of suppliers where it is consistent with this Procurement Policy and i) It is in the public interest ii) There is one (sole source) available supplier; or iii) Council is a party to a joint agreement where it jointly owns the intellectual property with a third-party provider; or

		iv) A Public Tender has closed without receiving submissions and engaging a select party will deliver a value for money outcome.
9	Exceptional Circumstances	The CEO may approve an exemption from the Public Tender requirement if exceptional circumstances exist. Where such an exemption has been approved, a report will be subsequently presented by the CEO to Council for noting.

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 a local newspaper. Information regarding current tenders will also 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;
- encourages sustainable options; and
- 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. Among 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; and
- 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 that 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; and

- 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 in relation to the procurement (see Section 2.7); and
 - deciding which tender or 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 a meeting of Council. This enables Council to conduct procurement activities in an efficient and timely manner while 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 goods, services and works on behalf of 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, services and works.

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 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, through:

- establishing a system for 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 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 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; and
- 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
	identifying, monitoring, and minimising emissions and exploring 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 that, 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 Council's goods, services and works requirements.

Council needs to interact with the market and its suppliers to understand their views and what enables and encourages diverse parts of the market to bid for work with 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
- **First Nation's business**
- Voluntary and community organisations

8. Breaches

Breaches of this Policy may lead to disciplinary action in accordance with Council's Enterprise Agreement.

9. Definitions and Abbreviations

Term	Definition
Act	Local Government Act 2020
CEO	Means the Chief Executive Officer of Council.
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 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 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 and/or Works 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, services or works regularly acquired by entities. In a panel arrangement, a number of suppliers are selected, each of which is able to supply identified goods, services or works.
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 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
Select Party	Council directly engages with a supplier/s to quote for the supply of goods, services or works.
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 tender using a public advertisement, followed by evaluation of submissions and selection of a successful 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 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

- *Local Government Act 2020*
- *Competition and Consumer Act 2010 (Cth)*
- Australian Standards
- *Child Wellbeing & Safety Act 2005*

10.2 Internal Policies & Documents

- Councillor Code of Conduct
- 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
- *Child Safety and Wellbeing 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, services and works in accordance with the thresholds listed below:

Procurement threshold	Procurement methodology
\$0 - \$1,000	One verbal quote
\$1,000.01 - \$10,000	Obtain at least one written quote
\$10,000.01 - \$50,000	At least three written quotes to be invited from suppliers who are considered able to meet requirements or one quote from Panel
\$50,000.01 - \$150,000	At least three written quotes to be invited from suppliers who are considered able to meet requirements using Council's eTendering Portal or One quote from a Panel provider
\$150,000.01 - \$250,000	At least three written quotes to be invited from suppliers who are considered able to meet requirements using Council's eTendering Portal or Three written quotes from Panel providers
> \$250,000	Public tender process using Council's eTendering Portal and advertising publicly as per Procurement Policy.
> \$500,000	Collaborative procurement opportunities explored