

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

19 July 2016

Agenda Item 7.2 Adoption of Procurement Policy

Attachment 1 Procurement Policy 13.POL1 163

**GREATER SHEPPARTON CITY
COUNCIL**

and

**GOULBURN VALLEY
REGIONAL COLLABORATIVE
ALLIANCE**

Policy Number 13.POL1

Procurement Policy

Version 2.2

Adopted February 2013

Last Reviewed February 2015

Business Unit:	Corporate Performance
Responsible Officer:	Manager Corporate Governance
Approved By:	Chief Executive Officer
Next Review:	March 2017

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PURPOSE

The intent of this *Procurement Policy* (“the Policy”) is to achieve best value outcomes and ensure high standards of probity and accountability in the procurement of goods, services and works for:

- a) the Greater Shepparton City Council (“Council”); and
- b) the Goulburn Valley Regional Collaborative Alliance (“GVRCA”) of which Council, Strathbogie Shire Council (“Strathbogie”) and the Moira Shire Council (“Moira”) are members.

Accordingly, the Policy provides for procurement processes where:

- i. Council invites tenders for goods, services or works where Council will be the principal to the contract; and
- ii. Council invites tenders as an agent for Strathbogie and Moira with the intention that each council subsequently enters into a contract.

OBJECTIVE

The objective of this Policy is to ensure that Council’s procurement principles, policies, processes and procedures achieve the following objectives:

- a) value for money, innovation and continuous improvement in the provision of services for the community;
- b) a strategic approach to procurement planning, implementation and evaluation;
- c) enabling sustainable outcomes including economic, environmental and social sustainability;
- d) efficient and effective use of Council resources;
- e) utilising collaboration and partnership opportunities;
- f) high standards of probity, transparency, accountability and risk management; and
- g) compliance with legislation, the *Council Plan 2013-2017* objectives, Council policies and industry standards.

SCOPE

Section 186A of the *Local Government Act 1989* (“the Act”) requires councils to prepare, approve and comply with a procurement policy encompassing the principles, processes, and procedures applied to all purchases of goods, services and works.

This Policy must be considered in all aspects of the procurement of goods, services and works.

The scope of this Policy commences from when there is an identified need for procurement requirements and continues through to the delivery of goods or completion of works and services. The Policy applies to Council, Councillors, Council staff and all persons undertaking procurement on Council's behalf and they are accountable for complying with all relevant procurement legislative and policy requirements.

DEFINITIONS

Reference term	Definition
Accountability and Transparency	Accountability in procurement means being able to explain and evidence what decisions have been made and what has happened. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.
Best value	Best value in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ol style="list-style-type: none"> 1. contribution to the advancement of the Council's priorities; 2. non-cost factors such as fitness for purpose, quality, service and support; and 3. cost-related factors including, where appropriate, whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
Commercial in confidence	Information that, if released, may prejudice the business dealings of a party eg: 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, part-time and temporary Council staff, contractors and consultants engaged by the Council.
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.
Panel contract	A panel contract is a standing offer agreement where multiple contractors are appointed to a panel of suppliers, rather than an agreement with just one contractor.
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. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
e-Procurement	e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system/s to acquire and pay for goods, services & 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.
Standing offer agreement	The contractor agrees to provide Council with specific goods or services as nominated in the contract and the contract is for a fixed period. There is no obligation on Council to purchase any goods or services, however if purchases are made under the contract, they are made under the terms and conditions which form part of the contract.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
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.

POLICY

1. Policy Principles and Application

Council and the GVRCA will apply the following fundamental best practice principles to all procurement, irrespective of the value and complexity of that procurement:

- a) value for money;
- b) open and fair competition;
- c) accountability;
- d) risk management;
- e) probity and transparency.

The application of this Policy needs to be considered in the overall context of achieving best value for money outcomes for Council, the Greater Shepparton community and the GVRCA community. Benefit to the local region is to be considered in all procurement.

2. Ethics and Probity

Councillors and members of staff (and all persons engaged in procurement activities on the Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny.

No prospective tenderer should be given or perceived to have an advantage over another tenderer.

In accordance with the Act, all members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (section 95 – Conduct Principles).

In procurement matters:

- a) members of staff must disclose a direct or indirect interest and Councillors must comply with the Primary Principle of Councillor Conduct and avoid conflicts between their public duties as a Councillor and their personal interests and obligations (section 76BA). Councillors, members of special committees and members of the Audit Committee must disclose a conflict of interest (section 79);
- b) Councillors must comply with the *Councillor Code of Conduct*;
- c) Councillors must not improperly direct or improperly influence a member of Council staff in the exercise of any power in the performance of any duty or function (section 76E);
- d) all consultants and external parties must complete a Deed of Confidentiality before assisting or evaluating quotation or tenders; and
- e) all Councillors and staff must adhere to *Council's Gifts and Benefits Policy* in matters of procurement.
- f) All communication with prospective tenderer must be done through the Council's e-tendering portal to ensure there is no disadvantage to everyone involved.

Councillors and staff must make their interests known in any situation where it could be perceived that an interest might exist.

3. Late tenders

Late tenders will not be accepted under any circumstances.

4. Probity Plan and Probity Audits

When projects are identified as of sufficient complexity, risk or scale (ie greater than \$10 million), a probity plan is to be prepared and a probity advisor must be engaged. The Probity Auditor must be appointed at the start of the Procurement process.

5. Conduct of Councillors and Council Staff

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

- a) treat potential and existing suppliers with equality and fairness;
- b) not seek or receive personal gain;
- c) maintain confidentiality of Commercial-in-Confidence matters and information such as tender and contract prices and other sensitive information;
- d) present the highest standards of professionalism and probity;
- e) deal with suppliers in an honest and impartial manner that does not allow conflicts of interest; and
- f) be able to account for all decisions and provide feedback on them.
 - a) deal with suppliers in an honest and impartial manner that does not allow conflicts of interest
- g) deal with suppliers in an honest and impartial manner that does not allow conflicts of interest
- h) remain natural prior to all decisions
- i) avoid approaching and liaising with prospective tenderers and contractors.

Council staff responsible for managing or supervising contracts are prohibited from either being engaged by a Council contractor or performing any works under the contract they are supervising.

6. Gifts and Benefits

Councillors or Council staff may be offered a gift or benefit in the course of their work.

This gift or benefit could be offered in good faith, or it could be an attempt to influence, bribe or compromise the Councillor's or Council staff member's ability to act in the public interest.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives or from organisations, firms or individuals with whom they have official dealings.

All gifts and benefits received must be dealt with in accordance with the Gifts and Benefits Policy.

7. Endorsement

Council staff must not endorse any products or services for internal contracts. Any requests for endorsement of external contracts must be referred to the Director or CEO.

8. Disclosure of Information

Information received by the Council that is Commercial in Confidence must not be disclosed and is to be stored in a secure location. Councillors and Council staff are to protect, by refusing to release or discuss information to the extent that it is Commercial-in-Confidence.

This may include:

- a) information disclosed by organisations in tenders, quotation or during tender negotiations; or
- b) pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests. 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.

Discussions must not be entered into with any tendering party or its representative or agent who could have potential contractual implications prior to the contract approval process being finalised, other than pre-contract negotiations.

9. Risk Management

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

All procurements are to be conducted in accordance with Council's risk framework as detailed in the *Risk Management Policy* and this Policy.

All clause changes and changes to standard documentations will need to be approved by the Risk Department in the first instance and then the relevant director.

10. Occupational Health and Safety

Council is committed to procurement activities that provide a safe working environment for employees, volunteers and contractors.

Council requires all its contractors and suppliers share this commitment to providing a safe and healthy environment, so far as is reasonably practicable.

10.1 Contractors and their staff

All persons working with Council under a contract, agreement or other documented work arrangement, must:

- a) comply with obligations under *Occupational Health and Safety Act 2004*, Regulations, Codes of Practice, Safety Standards and contract specific requirements;
- b) demonstrate effective safety management capabilities;
- c) identify and manage risk appropriate with the identified level of risk;
- d) consult with the relevant Council representative in relation to work health and safety duties and obligations to determine how OHS responsibilities will be managed;
- e) comply with requirements for qualifications, licences and registration;
- f) comply with the Council safety procedures implemented to protect workers' health and safety;
- g) report all incidents that have or could have, affected a person's health and safety; and
- h) provide sufficient information to allow performance to be monitored.

These are mandatory requirements and non-compliance may disqualify prospective contractors and suppliers.

11. Council Staff

Council employees responsible for any procurement or contractor activities must:

- a) undertake due diligence through Councils compliance Management system to ensure contractors and service providers within their control comply with all appropriate OHS legislative requirements; and
- b) ensure OHS considerations of purchases are given to ensure that the goods do not pose a risk to health and safety of workers.
- c) ensure appointed contractors, their employees and any subcontractors complete the current online contractor induction course prior to commencement of any works.

12. Sustainable Procurement

In accordance with the *Council Plan 2013-2017*, the organisation's procurement decisions and initiatives will be based on clear and transparent evidence, informed economic, environmental and social considerations. Therefore, to achieve sustainable

procurement, Council will adopt a triple-bottom-line approach by considering economic, environmental and social sustainability.

13. Economic Sustainability

Council's procurement activities will be carried out on the basis of obtaining value for money. This means minimising the total cost of ownership over the lifetime of the requirement, including disposal and end of life costs, consistent with acceptable quality, reliability and delivery considerations. Lowest purchase price is not the sole determinate of value for money.

14. Environmental Sustainability

Council is committed to enhancing the environment by supporting the principles of environmentally sustainable procurement within the context of purchasing on a value for money basis. The Council aims to achieve this by:

- a) taking into account the need to minimise emissions and reducing the negative impacts of transportation when procuring goods, services and works;
- b) taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products, services and works procured;
- c) considering the environmental credibility of tenders and requiring contractors to conduct their operations in an environmentally sensitive manner;
- d) selecting products, services and works that have minimal effect on the depletion of natural resources and biodiversity;
- e) giving a preference to Fair trade, or equivalent, and ethically sourced and produced goods and services;
- f) ensuring all relevant tender and contract documents contain sustainability specifications as appropriate to the product or service being procured;
- g) applying an Environment and Sustainability criteria with a mandatory 10 percent weighting to encourage the purchase of environmentally sustainable products;
- h) establishing specific programs for:
 - i. developing and implementing a Sustainable Procurement Action plan
 - ii. incorporating green purchasing into all purchasing systems
 - iii. Continue to investigate potential of ISCA rating tool

15. Social Procurement

Council is committed to improving the quality of life in Greater Shepparton and the GVRCA community through the involvement of the community in a range of factors including the provision of goods, services and works. Council is also committed to ensuring that all views are considered through inclusive deliberation and active involvement of the community.

15.1 Tender Submissions

c) Council is committed to supporting local businesses where such purchases are Justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

To encourage a focus on local businesses:

- a) council officers must seek at least one quotation from a local supplier, if available;
- d)
- b) for all publically advertised tenders over the tender threshold, a benefit to the local region will be considered and a weighting percentage of 10% will be assigned to the criteria element of 'Benefit to the local region'. Council will fully examine where the business has its head office, the percentage of staff employed, percentage of materials, plant and equipment used and what impact the business offers the local community.

Local is defined as within the municipal district and for a joint tender, within the three municipal districts.

16.Planning & Methodology

To ensure that goods, services or works meet the Council's needs, Procurement Plans or Project Charters will be prepared for all purchases greater than \$50,000 including GST, these will be managed through the e-tendering portal to ensure a consistent approach for all quotes and tenders.

17.Purchasing Methods

Council's standard methods for purchasing goods, services and works shall be by:

- a) purchase order, (preferred) for low value simple purchases under \$1,000, petty cash, or corporate credit or debit card or;
- b) purchase order following a quotation process for purchases under \$50,000;
- c) quotations using the standard quotation documents for purchases between \$50,001 and \$150,000 for goods and services and \$200,000 for works, these will be managed through the e-tendering portal to ensure a consistent approach for all quotations and tenders.;
- d) contract following a tender process, these will be managed through the e-tendering portal to ensure a consistent approach for all tenders.;

- e) purchasing schemes or approved suppliers including collaborative purchasing arrangements with other councils, agency arrangements (section 186{5} {b}) and Ministerial approved schemes (section 186{5} {b}) such as the Municipal Association of Victoria and Procurement Australia;
- f) the Council or the CEO may approve other methods of procurement or exemptions to this Policy under the Public threshold amount due to abnormal circumstances such as emergencies, sole suppliers or interruption to a delivery of a key services, in accordance with their level of authority; and
- g) Ministerial exemptions from tendering requirements over the threshold in exceptional circumstances such as natural disaster recovery or interruption to a delivery of key services.

18. Public Tenders

A public tender process must be undertaken when purchases of goods or services may exceed \$150,000 including GST, or purchases for the carrying out of works may exceed \$200,000 including GST.

Section 186 does not require Council to accept the lowest tender or to accept any tender and does not apply if:

- a) the Council resolves that the contract must be entered into because of an emergency; or
- b) the contract is entered into with a council acting as the agent for a group of councils and the Council has otherwise complied with this Act; or
- c) the contract is entered into in accordance with arrangements approved by the Minister (eg; purchases through MAV Purchasing and Procurement Australia currently have Ministerial approval);

Section 186(6) of the Act requires that whenever practicable, a Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand.

The Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders. A multi-stage tender process will commence with an expression of interest (EOI) followed by a selective tender process involving some or all of the EOI respondents.

Public Tenders are to be carried out within the Council's e-Tendering Portal.

19. Quotations

Purchase of goods and services to a value of \$150,000 inclusive of GST and works to the value of \$200,000 inclusive of GST or less, in a single contract (over the total life of the contract) or supply arrangement must be undertaken using a quotation method as described below:

- a) item of a value less than \$1,000 – best value;

- b) item of a value \$1,001 to \$10,000 - minimum one written quotation. Quotation details must be recorded in the Council's records system before placing an order. Similar details must be recorded where more than one supplier has quoted;
- c) item of value \$10,001 to \$50,000 – minimum two written quotations. Quotation details must be recorded in the Council's records system before placing an order. Similar details must be recorded where more than one supplier has quoted; and
- d) items with a value \$50,001 to \$150,000 for goods and services, or \$200,000 for works - Request for three written quotations. A minimum of three quotations is to be obtained by issuing a written Request for Quotation. Details of the suppliers contacted and their quotations must be recorded in Council's Record Management System. All quotations over \$50,000 will be issued and evaluated through the Council's e-tendering platform.

Quotations returned by the nominated closing date must be evaluated and a recommendation made to consider the supplier offering the best value for money outcome.

Related Plans, Policies, Directives, Guidelines and Legislation

Plans

- Council Plan 2013-2017

Policies and Procedures

- Councillor Code of Conduct
- Conflict of Interest – A Guide for Councillors October 2012
- Exercise of Delegations Policy
- Gifts and Benefits Policy
- Risk Management Policy
- Fraud Control Policy
- Corporate Credit Card CEO Directive
- Staff code of conduct

Guidelines

- Procurement Guidelines
- VLG Best Practice Procurement Guidelines 2013

Legislation

- Section 3C of the Act (objectives of a Council)
- Sections 77A, 77B, 78, 78A to 78E, 79 79B to D, 80, 80A to C and 95 of the Act (Conflict of Interest)
- Section 98 of the Act (delegations)
- Section 140 of the Act (accounts and records)
- Section 186 of the Act (power to enter into Contracts)
- Section 186A of the Act (Procurement Policy)
- Sections 208C of the Act (Best Value Principles)
- The relevant provisions of the *Competition and Consumer Act 2010*

Review

Section 186A (7) of the Act requires that at least once in each financial year, Council must review the current procurement policy and may amend the procurement policy. This is the responsibility of the Manager Corporate Governance

Peter Harriott
Chief Executive Officer

Date

ATTACHMENTS

Nil