

GREATER SHEPPARTON CITY COUNCIL

PROCUREMENT POLICY

Adopted by Council: 21 December 2021

Next Review: 21 December 2023



GREATER
SHEPPARTON

PROCUREMENT POLICY

| | |
|-----------------------------|------------------------------|
| Code: | 13.POL1 |
| Version: | 7.0 |
| Business Unit: | Corporate Governance |
| Responsible Officer: | Manager Corporate Governance |
| Approved By: | Chief Executive Officer |
| Adopted By: | Council 22 December 2021 |
| Next Review: | 21 December 2023 |

DOCUMENT REVISIONS

| Version # | Summary of Changes | Date Adopted |
|------------------|--|-------------------------|
| 7 | The Procurement Policy (Policy) has been reviewed and updated in accordance with Sections 108 and 109 of the Local Government Act 2020. | 21 December 2021 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

CONTENTS

PROCUREMENT POLICY..... 1

DOCUMENT REVISIONS..... 1

PURPOSE 4

OBJECTIVES 4

SCOPE..... 4

DEFINITIONS 5

POLICY 8

 I. BEST PRACTICE PROCUREMENT PRINCIPLES 8

 1. Value for Money 8

 2. Probity and Transparency 8

 3. Late Tenders 9

 4. Open and Fair Competition 9

 5. Accountability and Ethical Conduct 9

 6. Risk Management 9

 7. Sustainable Procurement 10

 8. Confidentiality 11

 9. Occupational Health and Safety 11

 II. PROCUREMENT FUNCTION 12

 1. Planning & Methodology 12

 2. Public Tenders 12

 3. Notice of public Requests for Tender 12

 4. Procurement Thresholds 13

 5. Cumulative Spend 13

 6. Risk Assessment..... 13

 7. Probity Plan and Probity Audits 14

 8. Shortlisting and Negotiations..... 14

 9. Criteria to be considered in evaluating value for money 14

 10. Collaborative Purchasing Opportunities 15

 11. Purchasing situations outside the scope of this Policy..... 15

 12. Exemptions 16

 III. GOVERNANCE PRINCIPLES 17

 1. Compliance monitoring and reporting..... 17

 2. Contract Management..... 17

 3. Supplier Code of Conduct 18

 4. Contract Variations..... 18

 5. Delegated Authority for approval of financial variations 18

 6. Risk and Audit Committee Review 18

POLICY REVIEW 18

RELATED PLANS 18

| | |
|---|----|
| RELATED POLICIES..... | 19 |
| RELATED GUIDELINES AND PROCEDURES | 19 |
| RELATED LEGISLATION..... | 19 |

PURPOSE

This Procurement Policy (“the Policy”) is made under Section 108 of the *Local Government Act 2020 (Vic)* (“the Act”).

It is Council’s intention that this Policy govern purchasing activities across the organisation in accordance with the requirements of the Act, being to:

- prepare, adopt and comply with a procurement policy which specifies the principles, processes and procedures applying to all purchases of goods and services and the carrying out of works by the Council to promote open and fair competition and ensure value for money;
- establish a threshold for public tender procurement activities;
- provide for collaboration in procurement activities; and
- review the Procurement Policy at least once during each 4-year term of the Council.

OBJECTIVES

The objectives of this Policy is are as follows:

- a) ensuring value for money, innovation and continuous improvement in the provision of services for the community;
- b) incorporating a strategic approach to procurement planning, implementation and evaluation;
- c) enabling sustainable outcomes including economic, environmental and social sustainability, having regard to whole of life impacts and benefits;
- d) efficient and effective use of Council resources;
- e) demonstrating high standards of probity, transparency, risk management and accountability to rate payers; and
- f) ensuring compliance with legislation, Council Plan objectives, Council policies and industry standards.

SCOPE

This Policy provides overarching principles to be applied in the carrying out of procurement activities throughout the sourcing, management and disposal phases of a purchase.

All Council Staff and Councillors are expected to observe the terms of this Policy in relation to any procurement activities they may undertake on behalf of Council.

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, but does not extend to related accounts payable processes.

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. |
| Aggregated Purchasing Contract | A contract established by another government agency or a nominated third party (ie, MAV or Procurement Australia) for the benefit of numerous state, federal and/or local government entities in the interests of achieving best value by leveraging combined economies of scale. |
| Procurement Best Practice Principles | The Procurement Best Practice Principles issued by the Victorian State Government in July 2021, and any revised principles which may replace same from time to time. |
| Commercial in confidence | Information that, if released, may prejudice the business dealings of a party eg: prices, discounts, rebates, profits, methodologies and process information. |
| Collaborative Procurement | Procurement activities undertaken in accordance with the requirements of Section 109(2) Local Government Act (as amended from time to time). For the purposes of this Policy, the term 'Collaborative Procurement' is distinguished from supply arrangements which have been entered into by third party agencies such as MAV or Procurement Australia and are pre-approved ('Pre-Approved Supply Arrangements'). |
| Contract management | The process that ensures that 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, part-time and temporary Council staff, contractors and consultants engaged by the Council. |
| Expression of Interest (EOI) | A procurement process used to identify suppliers interested in, and capable of, delivering the required goods or services. Potential suppliers are asked to provide information on their capability to do the work. It is usually the first stage of a multi-stage tender process. |
| First Nations Business | A First Nations Business is broadly defined as a business which is predominantly First Nations - owned, or which demonstrates a significant contribution to First Nations employment and/or proceeds to First Nations communities. |
| Local Business | A business having a head office or main depot/operations centre within one of the following municipalities: Greater Shepparton City Council, Moira Shire, Benalla Rural City, Strathbogie Shire, Campaspe Shire Council. |
| 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, with no obligation by Council to engage any one supplier for any particular volume of work. |
| 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 legislation, the Council's policies and procedures 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. |
| Probity Advisor | Refers to Council personnel or a contractor with extensive experience and skills in procurement who may develop probity plans and other key documents and provide advice and training to staff on probity principles and Corporate Procedures. |
| Probity Auditor | Primarily reviews all processes and documentation throughout the procurement process and provides a report on their findings at the conclusion of the process. |
| Probity Plan | A document developed to ensure the key aspects of Probity in relation to the relevant procurement process are captured for evidentiary purposes. |
| 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. Used interchangeably with the term purchasing. |
| 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. |
| Service Performance Principles | The principles outlined in s106 of the Local Government Act 2020 (Vic) |
| 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, usually by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer. |
| Value for Money | A balanced benefit measure covering quality levels, performance standards, risk exposure and sustainability factors as well as price. Where appropriate, value for money is assessed on a 'whole of life' or 'total cost of ownership' basis, taking into account costs associated with acquiring, |

| | |
|--|---|
| | transitioning, using, holding, maintaining and disposing of the goods, services or works. |
|--|---|

POLICY

I. BEST PRACTICE PROCUREMENT PRINCIPLES

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

1. value for money;
2. probity and transparency;
3. open and fair competition;
4. accountability;
5. risk management;
6. sustainable procurement; and
7. confidentiality.

This Policy details the overarching obligations to be observed by all Council Staff and where relevant, Councillors involved in procurement of goods, services or works on behalf of the Greater Shepparton community and an outline of the method by which purchases are to be made, by reference to anticipated spend.

1. Value for Money

In determining value for money in any procurement activity, Council is not required to accept the lowest cost. Council must instead have regard for a range of factors relevant to the particular good or service procured, including but not limited to quality, social and local outcomes, competitive pricing, risk, equity and responsiveness to the needs of the community, continuous improvement and capacity of the supplier.

2. Probity and Transparency

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 (Sections 126-131 of the Act).

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. Councillors, members of special committees and members of the Audit Committee must disclose a conflict of interest (Sections 126 - 130 of the Act);
- 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 120 of the Act);
- 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. 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. Open and Fair Competition

Council will apply the highest standards of integrity and ethical conduct, and will conduct business in a fair and transparent manner consistent with the public interest.

Council will manage purchasing activities in a manner which prevents or minimises the likelihood of bias or perceived bias.

Council Staff will ensure that all prospective suppliers are treated fairly, with the same access to information.

All Council Staff undertaking procurement activities on Council's behalf are responsible for the actions they take and decisions they make in relation to the procurement activity itself and the outcome of that activity.

Where a third-party agent is engaged to procure works, goods or services on behalf of Council, that agent must comply with this Policy and all relevant legislation.

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

5. Accountability and Ethical Conduct

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;
- f. be able to account for all decisions and provide feedback on them;
- g. deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- h. remain neutral prior to all decisions.

Council Staff involved in the procurement process, in particular preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report; and Councillors and Council Staff awarding tenders must avoid conflicts of interest wherever possible.

All Tender Evaluation Panel members or other persons required to provide advice in relation to a procurement activity will be required to complete a conflict of interest declaration.

Where a conflict arises, whether material, actual, potential or perceived, Council Staff must declare the conflict and remove themselves entirely from the procurement process at the earliest opportunity.

6. Risk Management

Risk management is to be appropriately applied at all stages of procurement activities ensuring sufficient planning is carried out, in order to protect and enhance Council's

capability to prevent, withstand and recover from interruption to the supply of goods, services and works and/or other forms of loss.

All procurement activities will be conducted within Council's risk framework, as detailed in the Risk Management Policy and this Policy.

7. Sustainable Procurement

The organisation's procurement decisions and initiatives will be based on clear and transparent evidence, informed economic, environmental and social considerations. In order to achieve sustainable procurement outcomes, Council will adopt a triple-bottom-line approach by considering economic, environmental and social sustainability.

7.1 Economic Sustainability

Council's procurement activities will be carried out in such a way as to encourage value for money. The objective is to minimise 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 determinant of value for money and must be considered in conjunction with other factors essential to the service or product being procured.

Whenever practicable, Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia.

A whole of life cost assessment should be undertaken in the evaluation of quotes or tender submissions for plant or fleet purchases under the public tender threshold (\$200,001 excluding GST), or where utilising a pre-approved purchasing arrangement via agencies such as MAV or Procurement Australia.

7.2 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. Council aims to achieve this by:

- a. taking steps to avoid carbon dioxide and other greenhouse gas emissions through the detailed consideration of products, services and works procured in line with Council's Carbon Zero 2030 Plan;
- b. taking into account the need to avoid emissions and reducing the negative impacts of transportation when procuring goods, services and works;
- c. ensuring the environmental credibility of tenders and requiring contractors to conduct their operations in an environmentally responsible 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. eliminating the use of gas as a power source in design and other projects, with a view to reducing greenhouse gas emissions wherever possible;
- g. applying an Environment and Sustainability criteria with a mandatory 10 (ten) percent weighting to encourage the purchase of environmentally sustainable products.
- h. Consider total cost of ownership or service in procurement (not up-front cost alone), where the upfront purchase price and the ongoing costs are evaluated. For example one service or material may be more expensive but require less operational, maintenance or energy costs or resources.

7.3 Social Procurement

Council is committed to improving the quality of life in the Greater Shepparton municipality and its local 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.

Wherever possible, Council will encourage and promote the procuring of goods, services and works from Social Enterprises (such as businesses with a Disability support focus, First Nations Businesses and Not for Profit Organisations).

7.4 Local Supply Market

Council is committed to fostering positive supply relationships with Local Businesses.

To demonstrate support for Local Businesses, Council shall ensure the following methodology is applied in procuring goods, services or works:

- a. For purchases of between \$10,001 and \$50,000 (excluding GST), Council Staff must use their best endeavours to obtain at least one of the two required quotes from a Local Business unless it is not possible to do so, or where a third party local business support/liaison organisation (ie. GROW Greater Shepparton or similar) has first been approached.
- b. For purchases of between \$50,001 and \$200,001 (excluding GST), Council Staff must use their best endeavours to obtain at least one of the three required quotes from a Local Business unless it is not possible to do so, or where a third party local business support/liaison organisation (ie. GROW Greater Shepparton or similar) has first been approached.
- c. For all publically advertised tenders over \$200,001 (excluding GST), a benefit to the local region will be considered and a mandatory weighting of 10 (ten) percent will be applied in evaluating the likely contribution by a supplier to the local economy.

8. Confidentiality

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 as to the proposed work under contract to be undertaken by the supplier.

9. 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.

All persons working with Council under a contract, agreement or other documented work arrangement, must comply with obligations under *Occupational Health and Safety Act 2004*, Regulations, Codes of Practice, Safety Standards and contract specific requirements.

II. PROCUREMENT FUNCTION

1. Planning & Methodology

All procurement by Council Staff will be conducted via one of the following methods:

- Direct purchase (using Corporate credit card or utilising existing supplier contracts)
- Request for Quotations
- Approved purchasing schemes or use of Panel contract (including panels established by councils in the eastern region and Victoria)
- Select tender
- Public tender
- Collaborative or joint procurement
- Victorian State Government contracts (e.g. State Purchase Contracts, Whole-of-Government contracts)
- Under an exemption outlined in this Policy

To ensure that goods, services or works meet Council's needs, a Procurement Plan must be prepared for:

- a. all purchases greater than \$200,001 (excluding GST); and
- b. any project which, following a risk and complexity assessment at the commencement of the procurement activity, is considered by the purchasing staff member (in liaison with the Contracts and Procurement and Risk Teams) to require a specification and contract to adequately detail the scope of the work or Council's requirements.

2. Public Tenders

A public tender process must be undertaken when purchases of goods or services or the carrying out of works is estimated to exceed \$200,000 (excluding GST).

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.

A public tender process must be undertaken for all procurements valued at \$200,001 and above (excluding GST). This threshold applies to the procurement of any goods, services and works save for situations not falling within the scope of this Policy, as detailed in Section 20, or situations for which the Chief Executive Officer has granted an exemption under Section 21 of this Policy.

The procurement process for all requests for tender will be managed by the Contracts and Procurement Team via Council's chosen e-tendering platform to ensure a consistent approach for all tenders.

3. Notice of public Requests for Tender

Information regarding current tenders will be published on Council's web site and Council's e-tendering platform via an advertisement in the local newspaper and on social media.

4. Procurement Thresholds

All purchases under the public tender threshold (\$200,001 excluding GST) will be made in accordance with the below table.

Where a panel of suppliers contract exists for the good or service being procured, all Council Staff must first engage a supplier from that contract prior to sourcing externally.

Where Council wishes to test an unfamiliar market or encourage innovation within an established market, a public invitation for an Expression of Interest may be issued, following which either a public or select Request for Tender or Request for Quotation may be requested.

| Procurement Threshold (excluding GST) | Procurement Methodology |
|---------------------------------------|---|
| >\$1,000 - \$10,000.00 | <ul style="list-style-type: none"> One written quotation. This methodology is appropriate only where purchases are one-off. |
| \$10,001 - \$50,000 | <ul style="list-style-type: none"> Obtain at least two written quotations, one of which must be sought from a Local Business unless it is not possible to do so (for example, where suppliers are unable to be sourced from the local market). |
| \$50,001 - \$200,000 | <p>Low risk purchases/projects:</p> <ul style="list-style-type: none"> Obtain at least three written quotations, one of which must be sought from a Local Business unless it is not possible to do so (for example, where suppliers are unable to be sourced from the local market). <p>High risk purchases/projects:</p> <ul style="list-style-type: none"> The above is subject to a risk and complexity assessment. Where the project or service is complex or requires a detailed specification and contract to sufficiently detail the work and minimise risk, a formal Request for Tender Process should be undertaken. |
| \$200,001+ | <ul style="list-style-type: none"> Public Request for Tender process, following which a Contract is to be entered into with the successful Tenderer. <p>High risk purchases/projects:</p> <ul style="list-style-type: none"> Probity Plan required. |

5. Cumulative Spend

Council Staff must not split purchases as a means of avoiding procurement thresholds.

Assessment of purchases to establish whether the public tender threshold (\$200,001 excluding GST) has been reached will be based on a consideration of a rolling spend on like goods, services or works over the course of a two year period, taking into consideration the lifetime spend of the goods, services or works purchased. Where that threshold limit is reached within the two year timeframe, a public Request for Tender process must be undertaken.

6. Risk Assessment

At the commencement of any formal procurement process, the Council Staff member undertaking the procurement activity will be responsible for conducting a risk assessment, by reference to Council's risk framework. The identified level of risk will

inform the particular procurement process to be undertaken and the risk mitigation or management requirements to be incorporated in that process.

7. Probity Plan and Probity Audits

A probity plan is a document that sets out the steps to be taken and the processes to be implemented to ensure a complex, high value or high risk tender is conducted in such a way as to minimise or manage risk. Formal probity plans should be developed and implemented in any of the following circumstances:

- a. In any Tender Process where the budgeted figure is \$10 million (excluding GST) or above;
- b. where a probity plan is considered necessary in complex procurement activities , where the proposed Contract is in the Executive view particularly complex, high risk or controversial in nature and requires a high level of public confidence.

An independent probity advisor must be engaged from procurement plan stage in any procurement activity with a budget estimate of \$5 million (excluding GST) or above.

8. Shortlisting and Negotiations

Council may provide for a shortlisting stage during any procurement process. The criteria to be applied to shortlisted suppliers should be relevant to the particular good or service being procured with the intention of producing an outcome which reflects the Service Performance Principles.

Council may also elect to invite a best and final offer from shortlisted Tenderers. The best and final offer may relate to the whole of the tenderer's tender or certain aspects.

Once a preferred tenderer or tenderers are selected, negotiations may be conducted in order to refine the commercial aspects of the contract, so long as the scope is not varied from that which was reasonably contemplated as part of the original tender documentation. Probity principles must apply to all negotiations.

9. Criteria to be considered in evaluating value for money

All procurement activities must be sufficiently documented to provide an audit trail for monitoring and reporting purposes. All Council staff members involved in procurement activities must be able to demonstrate accountability for all actions taken and decisions made by the staff member over the lifecycle of the particular good or service procured.

Every Procurement Plan must include all of the following as mandatory criteria:

- a. Price
- b. Environmental Sustainability
- c. OH&S Systems (for construction contracts)
- d. Benefit to Local Region; and

A minimum of two of the below criteria as considered appropriate for the goods, services or works being procured:

- e. Ability of the tenderer to meet the timeframes desired by Council.
- f. Experience and capability of the Tenderer.
- g. Quality management systems
- h. Continuous improvement systems
- i. Any accreditation which may be required as a prerequisite; and

Any other criteria considered relevant to the particular Contract.

10. Collaborative Purchasing Opportunities

Before engaging any other purchasing method and in accordance with s108(c) of the Act, Council staff must first consider whether there exists any opportunity to join other Councils or other government bodies in a procurement activity in the interests of leveraging value through economies of scale.

Any report to Council recommending a particular procurement process must set out:

- any opportunities for collaboration, including the nature of the collaborative arrangement/s;
- with whom opportunities to collaborate may be available; and
- where a collaborative process is not undertaken, the reasons why Council cannot enter into a collaborative procurement process.

Any Federal or State funded projects are excluded from the requirement to seek opportunities for collaboration.

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

- A list of prospective contracts with a value of \$500,000 or greater for supply of goods, services or works will be shared will be shared annually between the Hume Region Regional Procurement Excellence Network Group (RPEN Group) in advance of the next budget year to allow Council staff to consider potential opportunities for collaboration.
- Where Council wishes to collaborate with two or more local Councils, a Heads of Agreement will be entered into, with one council nominated as the lead council for the purposes of the procurement activity. The Heads of Agreement will give authority for the Lead Council to act as procuring agent for participating councils and will detail the way in which the procurement activity will be conducted. Each participating council will be given the option to enter into a contract with its preferred service provider/s following evaluation.
- Alternatively, a Joinder Agreement will allow one or more Councils to join an existing contract allowing each Council to 'opt in' at any such time as it should require to do so. Each Council will then follow its own internal approval process and the contract term will be staggered to meet the individual requirements of each participating Council.
- In collaborative procurement activities with the Hume RPEN Group, 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, Specifications;
 - ensuring probity in the procurement process; and
 - deciding which tenders it will accept or reject.

11. Purchasing situations outside the scope of this Policy

A number of purchasing scenarios are expressly stated not to fall within the scope of this Policy. Council is not required to undertake any tender, quotation, or expression of interest process under if any of the following circumstances apply:

| Purchasing Situation | Explanation |
|---|---|
| 1. A contract made because of genuine emergency or hardship | <ul style="list-style-type: none"> Where the CEO determines that a contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster) |
| 2. A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party. | <ul style="list-style-type: none"> This general exemption allows engagements with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government. Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA). |
| 3. Professional services | <ul style="list-style-type: none"> Legal services providers, probity advisors, financial and auditing consultants. |
| 4. Statutory Compulsory Monopoly Insurance Schemes | <ul style="list-style-type: none"> Motor vehicle compulsory third party WorkCover Joint/mutual insurance schemes, specifically catering to Local Government |
| 5. Information technology resellers and software developers | <ul style="list-style-type: none"> Allows Council to contract with a copyright holder where the solution is tendered directly with a software provider, or via an authorised re-seller. (e.g. Software licence agreements) |
| 6. Variations under contract | <ul style="list-style-type: none"> Where the variation is considered a genuine variation arising from circumstances outside the control of Council, rather than subject matter giving rise to a new contract. |
| 7. Development Works (where a DCP exists) | <ul style="list-style-type: none"> Works of the type defined in the Procurement of Public Infrastructure Works Policy – specifically, where works of the type required are already being carried out by a developer on the relevant site, in circumstances where it would not provide value for money to engage an alternative contractor. |
| 8. Regional Waste and Resource Recovery Group arrangements | <ul style="list-style-type: none"> Any collaborative or other arrangement entered into as part of or via a Regional Waste and Resource Recovery Group. |
| 9. Essential services authorities | <ul style="list-style-type: none"> Third party asset – related charges, where the service cannot reasonably be provided by any other supplier or where changing suppliers would not provide value for money eg. Powercorp, GV Water |

12. Exemptions

Where a Council Staff member wishes to purchase directly, without first undergoing a procurement process outlined in this Policy, unless any of the circumstances in Section 20 of this Policy apply, then an exemption request must be made to the Chief Executive Officer for approval. Council deems the following situations acceptable for the purpose of exempting a purchase from the requirements of this Policy:

| Exemption request scenario | Explanation and requirements for approval |
|--|--|
| 1. Sole supplier/proprietary owned products/services | <ul style="list-style-type: none"> Where there is a genuine need for a particular good or service for which the Intellectual Property is owned by one supplier, or where the service is unique and therefore unable to be provided by any other supplier. |
| 2. Extension of contracts while Council is at market | <ul style="list-style-type: none"> Allows Council to extend an existing contract or make alternative arrangements for a maximum period of six months from the expiry where the tender to replace the contract has commenced. Switching supply for such a short period is usually not cost effective or practical. Extension may be required where the tender process or negotiations have taken longer than expected |
| 3. Previously failed public market approach | <ul style="list-style-type: none"> Where a previous public tender process has failed to produce a viable result and the closing date of the unsuccessful tender is within the six months prior to the engagement of the supplier. |
| 4. Grant Funding partner involvement | <ul style="list-style-type: none"> Where grant funding partners are involved to a significant degree in the delivery of works (specifically, where the requirements of any particular funding agreement might conflict with the requirements of this Policy). |

III. GOVERNANCE PRINCIPLES

All procurement activities by Council must be conducted in a manner which is consistent with procurement best practice and the Service Performance Principles. All Council Staff are required to comply with the Act and this Policy, the Procurement Corporate Procedure and other internal Codes of Conduct at all times.

1. Compliance monitoring and reporting

The CEO will have responsibility for internal procurement processes with the aim of ensuring:

- A system of approvals governs any particular transaction from end to end and no one person is responsible for the entire process;
- All procurement processes are transparent;
- Procurement activities are well documented and capable of producing an audit trail;
- Compliance is monitored and areas of exposure to increased risk are identified and managed.

The Contracts and Procurement Team report minor compliance issues to the relevant Team Leader, Manager or Director. Any serious breaches identified will be reported to the Risk and Audit Committee, the CEO and Council as appropriate.

2. Contract Management

The Council Staff member procuring the goods, services or works will be the owner of and responsible for the management of any contract which may be entered into which relates to that initial procurement activity, to ensure value for money for Council.

The Contracts and Procurement team will manage a central database of contracts and carry out regular auditing and reporting functions with the aim of ensuring that the integrity and currency of the contract information is maintained.

The contract owner will be responsible for updating all information relating to their particular contract.

The effective management of contracts is considered to require at a minimum:

- a. establishing a system to monitor and the responsibilities and obligations of both parties under the contract;
- b. a commitment to early identification of issues and performance problems and finding solutions; and
- c. adhering to Council's Risk Management Framework and monitoring contractor compliance with Occupational Health and Safety and other requirements.

3. Supplier Code of Conduct

Council will demonstrate a commitment to ensuring its suppliers observe Council's Supplier Code of Conduct, as updated from time to time.

The Supplier Code of Conduct will state the obligations of suppliers to act in accordance with recognised human rights and environmental, Occupational Health and Safety and a generally accepted standard of ethical behaviour.

Suppliers will be required, prior to commencing work under a contract, to complete an acknowledgment that they have read and understood, and agree to act in accordance with the Supplier Code of Conduct.

4. Contract Variations

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract.

The assessment of every contract variation will involve consideration of the following factors:

- The monetary value of the proposed variation, i.e. the value of the variation in the context of the thresholds fixed by the Procurement Policy; and
- The subject matter of the proposed variation and whether it falls within the scope of the original contract.
- Any other requirement as referenced by the Exercise of Delegations Policy.

5. Delegated Authority for approval of financial variations

The delegated authority limit will be the same as the delegation for the initial contract award sum. When ascertaining the correct delegation limit, regard must be had to the entire contract spend, including the variation amount and any previous variations to the same contract.

Where any variation causes the contract spend to exceed \$500,000 (including GST), the variation must be put to a Council meeting for approval.

6. Risk and Audit Committee Review

The Risk and Audit Committee shall be responsible for reviewing and monitoring exemptions and variations on a quarterly basis (by financial year) and identifying potential risk areas.

POLICY REVIEW

Council will review its Procurement Policy at least once during each 4-year term of the Council. This is the responsibility of the Manager Corporate Governance.

RELATED PLANS

- Council Plan 2017 – 2021

RELATED POLICIES

- Councillor Code of Conduct
- Conflict of Interest Policy
- Exercise of Delegations Policy
- Gifts and Benefits Policy
- Risk Management Policy
- Fraud Control Policy
- Corporate Credit Card CEO Directive
- Staff Code of Conduct

RELATED GUIDELINES AND PROCEDURES

- Procurement Corporate Procedures
- Best Practice Procurement Principles 2021

RELATED LEGISLATION

- *Local Government Act 2020*
- The relevant provisions of the *Competition and Consumer Act 2010*



23rd December 2021

Peter Harriott
Chief Executive Officer

Date

ATTACHMENTS

Nil