

DOCUMENT TYPE:	Council policy
DOCUMENT STATUS:	Approved
POLICY OWNER POSITION:	Manager Financial Services
INTERNAL COMMITTEE ENDORSEMENT:	Audit and Risk Committee
APPROVED BY:	Council
DATE ADOPTED:	26/04/2023
VERSION NUMBER:	12
REVIEW DATE:	26/04/2025
DATE RESCINDED:	Click here to enter a date.
RELATED STRATEGIC DOCUMENTS, POLICIES OR PROCEDURES:	Procurement Procedure Standard documentation for tendering and contract management Procurement Workflows Staff and Contractor's Code of Conduct Levels of Authority Delegations Anti-Fraud and Corruption Policy Complaints Handling Framework Local Government Procurement Best Practice Guideline
RELATED LEGISLATION:	Local Government Act 2020 Competition and Consumer Act 2010 Environment Protection Act 2017 Disability Act 2006
EVIDENCE OF APPROVAL:	 Signed by Chief Executive Officer
FILE LOCATION:	K:\EXECUTIVE\Strategies policies and procedures\Policies - adopted PDF and Word\POL Procurement Policy v12 docx.docx

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## 1 PURPOSE

The purpose of this policy is to outline Council's approach to the procurement of goods, services and works by Council in the delivery of services to the community and the operations of the organisation.

## 2 SCOPE

This policy applies to all procurement activities at Council and is binding upon all Councillors, staff, volunteers, contractors, consultants and persons employed or engaged by, or acting on behalf of Council (hereinafter referred to as council representatives).

All monetary values stated in this policy exclude GST, unless specifically stated otherwise.

## 3 POLICY

Council is committed to best practice procurement by following the principles outlined in Section 108(2) of the Local Government Act 2020 (the Act) to:

- promote open and fair competition and provide value for money
- provide clear guidance to enable consistency, control and continuous improvement in the provision of goods, services and works for the community
- demonstrate to the community, and achieve high standards in, probity, transparency, accountability and risk management in all procurement activities
- provide guidance on ethical behaviour in public sector procurement
- demonstrate the consideration of sustainability in procurement with respect to social, economic and environmental factors
- achieve compliance with relevant legislative requirements
- encourage and promote use of local businesses wherever practical
- ensure that Council resources are used effectively and efficiently to improve the overall quality of life of people in the local community
- achieve Best Practice in accordance with the Victorian Local Government Best Practice Guidelines and the Act
- help identify opportunities to facilitate or participate in collaborative procurement alternatives.

To support this commitment, Council will adhere to all required provisions in the Local Government Act 2020 and the Competition and Consumer Act 2010 in all procurement matters, and maintain consistency with any Victorian Local Government Best Practice Procurement Guidelines.

Council will also follow the following principles when undertaking procurement activities as outlined in the Act which requires each council to:

- prepare and adopt a procurement policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services and carrying out of works by the Council; and
- review its procurement policy at least once during each 4-year term of the Council.

The following sections outline each of the principles of procurement best practice.

## 4 OPEN, FAIR COMPETITION AND PROVIDING VALUE FOR MONEY

### 4.1 Fair and honest dealing

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

Any suspected improper conduct, including suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or detrimental action should be managed in accordance with Council's relevant policies and procedures.

## 5 CLEAR GUIDANCE

### 5.1 The role of the procurement team

The role of procurement is to ensure that goods, services and works procured by Council are of the right quality, from the right source, at the right cost and are delivered on time and within budget, to achieve a value for money outcome.

For tender processes, the Procurement Team will lead and oversee the process for all Council tender processes, acting as Council's representative between Council and tender participants.

For non-tender processes, the Procurement Team is responsible for developing, monitoring and reporting on performance measures.

### 5.2 Standards

Council's procurement activities aim to comply with the professional standards required by best practice and be in compliance with:

- the Act
- Council's Policies
- Staff, Volunteers and Contractors Code of Conduct and Councillor Code of Conduct
- other relevant legislative requirements such as, but not limited to, the Consumer and Competition Act, Goods Act, Victorian Local Government Best Practice Procurement Guidelines and the Environmental Protection Act (2017).

The legislative requirements of the Disability Act 2006 and Regulations 2018 will be considered by Council representatives to ensure that procurement processes and decisions do not directly or indirectly discriminate against people with a disability.

### 5.3 Methods

Council's standard method for purchasing goods, services and works will be some or all of the following methods:

- purchase order following a quotation process from suppliers for goods or services that represent value for money under quotation thresholds adopted by Council
- petty cash (in limited circumstances)
- corporate credit card and fuel cards are subject to Corporate Credit Card Policy limitations
- under contract following a quotation or tender process
- under a supplier panel

- a multi-stage tender process commencing with an Expression of Interest (EOI) followed by a tender process involving the tenderers selected as a consequence of the EOI stage
- under sole-sourcing arrangements in line with the conditions contained in Appendix 2 – Exemptions from thresholds and competition
- using collaborative and/or aggregated purchasing arrangements with other Councils, MAV Procurement, Victorian Government, or other bodies.

In the case of emergency circumstances, other arrangements may be authorised by the Council or the CEO. Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

## 5.4 Procurement thresholds and competition requirements

Council will invite offers from the supply market for goods, services, and works in accordance with the thresholds listed in Appendix 1.

### 5.4.1 Competition requirements

#### **Procurement threshold**

Council has a procurement threshold, the value above which a procurement, unless exempt, is subject to the mandatory procurement processes. Council's procurement thresholds are identified in the table in Appendix 1.

Procurement thresholds will be established during the review of this Policy based on a thorough analysis of historical procurement activity and will change as a result of the adoption of this Policy.

#### **Cumulative spend**

Council has a cumulative spend competition threshold. A cumulative spend competition threshold is where spend with any one supplier is at risk of exceeding the threshold for public tender, unless exempt. Council's cumulative spend competition threshold is identified in the table in Appendix 1 – Procurement Thresholds.

### 5.4.2 Procurement thresholds

#### **Public tender threshold**

Section 108 of the Act details that each Council will set the public tender threshold above which tenders or expressions of interest for contracts must be publicly invited.

Council's public tender threshold is identified in the table in Appendix 1 – Procurement Thresholds.

#### **Other procurement thresholds**

For procurement valued under \$300,000, the procurement methodology and thresholds detailed in Appendix 1 will apply.

### 5.4.3 Exemptions from competition and thresholds

There are circumstances where thresholds and competition are impractical. For a list of exemptions to thresholds and competition, refer to Appendix 2 – Exemptions from thresholds and competition.

## 5.5 Quotation and non-public tender activities

### 5.5.1 Formal system of procurement requirements

For purchases of goods, services and works having a total valuation of less than public tender threshold Council will maintain a formalised system of procurement requirements.

## 5.5.2 Request for quotes to be auditable

The following approaches meet the minimum requirement for the requesting quotes:

- contact with suppliers by phone or email seeking a written (or verbal where permitted) quote
- advertising on the eProcure portal
- public advertising, where a field of potential tenderers hasn't been established, an innovative approach is required, or the project has broad appeal that may attract competitive prices, etc.

Exemptions that may exist to the quotation process include:

- extension of current work scope
- eligible panel contract terms
- availability of a specialty supplier, eg. legal, valuation
- limited availability suppliers in that industry
- sustainable procurement factors (as per Section 5.7).

Exemptions to the quotation process must still meet value for money principles and must be approved by the Procurement Team.

## 5.5.3 Insufficient quotation not to invalidate procurement activity

In some circumstances the required number of quotations cannot be achieved. This will not terminate the procurement process.

Where insufficient quotations are received, Council representatives may either continue or terminate the evaluation process.

Where the process is terminated, the original process must be closed and suppliers notified before recommencing a new procurement process.

Where the process is continued, a written statement is required with the details of all invited suppliers and the reason the number of quotations are unable to be achieved. A copy of the written form must be attached to the purchase order and approved by a direct supervisor.

## 5.5.4 Evaluation criteria

Evaluation criteria for quotes must be established prior to receipt of quotes.

## 5.6 **Minimum spend competition threshold**

Where spend is expected to be less than the minimum spend competition threshold, only a verbal quote is required to enable the raising of a purchase order. Refer to the table in Appendix 1 – Procurement Thresholds.

## 5.7 **Internal panel contracts**

One of the valid outcomes of a public tender process is the appointment of a panel of contractors to promote security of supply. This is most likely to be the case where Council requires a range of services to be performed. The subsequent use of quotes on a job-by-job basis further promotes competition and value for money.

Panel contractors are usually appointed for an initial two year term with options to extend contracts. Standard contract documentation specifies that contractors will not be guaranteed any work but they may be called on at any time to supply goods, services or works.

In these cases, the contractors may be engaged by:

- using the schedule of rates submitted in their tender
- requesting quotes.

Once a panel is established, care should be taken in relation to the engagement of one or more of the contractors on the panel. Some aspects to consider are:

- the panel member who can best provide the required good/service
- if all members of the panel are offering a similar service, the contractor offering the lowest price may be the best option
- avoiding situations where, over the contract term, one or two members of the panel are allocated the majority of the work.

Panel contracts procurement threshold (GST exclusive)	Procurement process
\$0 - \$19,999	Council representative may obtain a written quote from panel contractors.
\$20,000 - \$49,999	Council representative will seek at least two (2) written quotes from panel contractors.
Above \$50,000	Procurement Team will seek at least three (3) written quotes from panel contractors using the e-procurement portal. A detailed specification must be prepared that provides a clear description of the goods/services/works being purchased. It must include evaluation criteria relevant to the purchase.
Above \$300,000	Public tender recommended.

Where Council has resolved to approve a panel contract and increased the CEO delegation for that panel contract, the tender threshold will be increased in accordance with the CEO delegation for the life of the approved panel contract.

## 5.8 Performance measures and continuous improvement

Appropriate performance measures must be established and reporting systems must be used to monitor performance and compliance with this policy and the Council's procurement procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be developed and performance against targets will be measured and reviewed regularly to support continuous improvement.

The performance measurements developed will be used to:

- highlight trends and exceptions where necessary to enhance performance
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers
- facilitate programmes to drive continuous improvement in procurement to eliminate waste and inefficiencies across key spend categories and processes.

Continuous improvement will also be achieved by seeking and responding to feedback from stakeholders.

## 6 PROBITY, TRANSPARENCY, ACCOUNTABILITY, ETHICAL BEHAVIOUR AND RISK MANAGEMENT

Council's procurement activities will be performed in an open, transparent and ethical manner with demonstrated integrity, fairness and accountability that meets relevant legal requirements.

All tender processes will be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and the Act.

### 6.1 Conduct of council representatives

Council representatives will at all times conduct themselves in a way that is in accordance with the applicable Code of Conduct and will perform their duties ethically, with integrity and must:

- treat potential and existing suppliers with equality and fairness;
- not use their position to seek or receive personal gain in procurement matters;
- maintain confidentiality of Commercial in Confidence information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide suppliers and tenderers with the same information and equal opportunity to tender or quote for goods, services and works contracts;
- be able to account for all decisions and demonstrate and provide evidence of the process followed;
- ensure that this Procurement Policy and Council's Procurement Procedure are adhered to in relation to any expenditure of Council funds;
- not perform any work under any Council contracts or suppliers they are supervising i.e. a Council representative cannot also work for the relevant supplier; and
- query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity or established policies and procedures
- ensure that this Procurement Policy and any Council procurement procedures or guidelines are adhered to in relation to any expenditure of Council funds.

#### 6.1.1 Gifts and benefits

No Council representative is to, either directly or indirectly, solicit or accept any immediate or future reward or benefit in return for the performance of any duty or work for Council or where it could be reasonably perceived as influencing them or their position or undermining their integrity or the integrity of the process in some way.

Any gift or benefit offered to a Council representative will be managed in accordance with Council's internal policies and procedures.

Council representatives must not knowingly visit a current supplier's premises without invitation when acting in their official capacity and engage a Council supplier for private benefit, unless that engagement is on proper commercial terms.

For further information on gifts and hospitality please refer to the Staff, Volunteers and Contractors Code of Conduct and the Councillor Gift Policy.

#### 6.1.2 Conflict of interest

Council representatives will at all times avoid situations which may give rise to any general or material conflict of interest.

A Council representative has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A Council representative has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of Council Staff and their family members.

Council representatives 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 awarding tenders must:

- **avoid** and manage conflicts of interest
- **declare** presence or absence of conflict of interest through completion of Conflict of Interest declaration at the appropriate point in time
- **observe** prevailing Council and Government guidelines on how to prevent and manage conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

Council representatives must not participate in any procurement activity, including request for quotation or tender, evaluation, negotiation, recommendation, or approval, where that person has a material conflict of interest (as defined in Section 128 of the Act).

A material conflict of interest may include, but is not limited to:

- shares
- current or pre-existing relationships with employees
- positions held
- previous employment
- hospitality or gifts
- obligation
- allegiance.

A person may participate in any procurement activity, including request for quotations or tender, evaluation, negotiation, recommendation, or approval, where that person has a general conflict of interest and meets the criteria outlined in Section 129 (Exemptions) of the Act. The person must complete a conflict of interest declaration identifying the exemption (as set out in Section 129 of the Act) that applies.

For further information on Conflicts of Interest please refer to the relevant Code of Conduct.

## 6.2 Probity, accountability and transparency

Probity in procurement is delivered by having an ethical and transparent approach to procurement processes. The process should be clear, open and well understood and the decisions and actions of individuals involved in procurement activities must reinforce the fundamentals of probity.

Accountability in procurement means being able to explain and provide evidence on the process followed. 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.

All Council representatives must be transparent, this includes being able to account for all procurement decisions ensure all procurement activities leave an audit trail for monitoring and reporting purposes.

## 6.2.1 Disclosure of information

Commercial in Confidence information received by Council must not be disclosed and is to be stored in a secure location.

Council representatives are to protect confidentiality, by not releasing or discussing the following:

- allocated budgets for proposed tenders and quotations
- information disclosed by organisations in tenders, quotations or during tender negotiations
- all information that is Commercial in Confidence
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Council representatives will avoid references to current or proposed contracts in discussion with anyone not associated with the contract.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised other than through authorised pre-contract negotiations.

## 6.2.2 Commercial information

Procurement activities will be carried out in a way that supports Council representatives in meeting their obligations. Information of a commercially sensitive or confidential nature will be obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant legislation and Council policies and procedures.

## 6.3 **Complaints and reporting suspicious activities**

### 6.3.1 Complaint handling

Members of the public and suppliers are encouraged to report known or suspected incidences of improper conduct to the Chief Executive Officer (CEO). Council representatives will report and manage complaints in accordance with Council's internal policies and processes.

### 6.3.2 Reporting suspicious activities

Council representatives and Council suppliers are required at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. Council is committed to protecting all revenue, expenditure and assets from any attempt to gain illegal benefits (financial or otherwise).

Council will take all reasonable steps to protect those who assist Council by providing information about suspected fraud. This will include confidentiality of identity and protection from harassment, to the extent possible.

Suspected improper conduct, offers of bribes, commissions and any other irregular approaches from suppliers, prospective suppliers or other individuals will be investigated and reported in accordance with relevant legislation and Council's Public Interest (Protected Disclosure) Policy and Procedure.

The CEO will notify Independent Broad-based Anti-corruption Commission (IBAC) of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred in accordance with mandatory reporting requirements under the Independent Broad-based Anti-corruption Commission Act 2011.

## 6.4 Governance structure

Council has delegated a range of powers, duties and functions to the CEO in relation to procurement. The delegations aim to ensure that the Council's procurement structure operates according to procedures that:

- are flexible enough to purchase, in a timely manner, the diverse range of goods, services and works required by Council
- afford prospective contractors and suppliers an equal opportunity to tender/quote
- encourage competition and collaboration.

Council representatives must not authorise the expenditure of funds in excess of their financial delegation.

## 6.5 Risk management

Council is committed to the practice of effective risk management to provide improved stakeholder confidence and trust, and to support improved compliance and better corporate governance.

Risk management will be appropriately applied at all stages of procurement activities.

Council will minimise its risk exposure through measures such as:

- standardisation of contracts including current and relevant clauses
- requiring security deposits when appropriate
- referring specifications to relevant industry experts
- ensuring contractual agreements are in place before the commencement of works
- use of and enforcement of delegated authorities
- use of or reference to relevant Australian Standards (or equivalent)
- effectively managing the contract through ongoing monitoring to ensure the required performance is being achieved
- complying with Council's Occupational Health and Safety Policy
- requiring insurance and indemnity cover appropriate to the type of contract
- inclusion of contract dispute resolution provisions to minimise the chance of disputes escalating and leading to legal action.

To protect the interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to this requirement exposes Council to risk.

Contracts must be proactively managed by Council representatives responsible for the delivery of the project/contract. Each should be assessed equivalent to size, type, complexity, duration and value to determine the level of risk. This will then determine the level of management of the particular project / contract and forms an integral part of good contract management.

Risk assessments are a vital part of the procurement planning process, particularly for significant contracts. Risks will be identified for each procurement activities. Appropriate risk avoidance and mitigation strategies will be employed whenever practicable and appropriate.

Council will establish internal controls over procurement processes ensuring:

- purchase orders are raised for all purchases, with the exception of:
  - corporate credit card purchases
  - cash reimbursements
  - fuel
  - utilities
  - subscription and annual memberships
  - leases
  - other defined standard monthly charges
  - other defined standard annual charges
- purchase orders are raised before invoices are received
- more than one person is involved in and responsible for a transaction end to end
- any variations of more than 10% or \$100 (whichever is the lesser) between the purchase order quoted price and the suppliers invoice amount are sent for an additional variation approval by the relevant authorised Council representative as per Council's Levels of Authority Delegations
- a clearly documented audit trail exists for procurement activities
- appropriate authorisations are obtained and documented
- systems are in place for performance measurement and appropriate monitoring
- conflict of interest and confidentiality declarations are obtained where required
- amendment to this Policy can only be made following resolution of Council.

## 7 SUSTAINABLE PROCUREMENT AND LOCAL SPEND

### 7.1 Economic sustainability

Council is committed to procurement that supports local businesses and economic diversity and viability by:

- generating local employment
- taking into account the life cycle of products purchased
- building relationships and encouraging purchasing by contractors from local suppliers and
- fostering innovation and emerging sectors.

### 7.2 Local procurement

Council is committed to buying from local businesses where such purchases may be justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

Where practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within this category by applying a recommended weighted score of 20% component for this category in tenders and quotations where sustainable procurement values are identified as an evaluation criteria. Where necessary, this component can be increased or decreased to reflect the particular good or service being procured.

### 7.3 Aboriginal procurement

Council is committed to buying from Aboriginal businesses or enterprises where such purchases may be justified on value for money grounds, while remaining compliant with any legislative requirements.

Where practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within this category by applying a recommended

weighted score of at least 5% component for this category in tenders and quotations where sustainable procurement values are identified as an evaluation criteria.

Council will conduct annual audits to assess what the total spend with Aboriginal businesses is and continually look for opportunities to improve this via its Procurement team.

## 7.4 Social sustainability

Council is committed to social procurement. Consideration of corporate social responsibility, as part of the procurement selection criteria may provide opportunities to generate positive social outcomes in addition to the delivery of goods, services and works.

Social procurement helps meet Council's social objectives and builds stronger communities. When evaluating Corporate Social Responsibility, evaluation panels may consider the following drawn from the Victorian Government's Corporate Social Responsibility guidelines.

Benefit	Impact
Local sustainability	Strengthening the local economy and ensuring its financial and environmental sustainability.
Social inclusion	Promoting openness and equal opportunity for disadvantaged and vulnerable community groups. Building social capital in the community.
Employment and training	Creating local employment opportunities through clauses and specifications in Council contracts. Developing practical training to build long-term employment opportunities.
Diversity and equality	Ensuring all businesses have the same opportunity to tender for Council contracts. Ensuring that the supply markets around essential and key services for Council remains diverse and vibrant. Ensuring that local suppliers such as small to medium-sized enterprises (SMEs), social enterprises and Indigenous businesses are well-positioned to prosper in the local economy.
Service innovation	Fostering a new social economy, addressing service gaps by piloting joint ventures between councils and external partners.
Fair trade	Purchasing ethical and fair trade goods to support equitable local, national and international trade compliant with Australian Government Fair Trade laws. Ensuring Council supply chains adhere to local, national and international labour standards.

Where practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within this category by applying a weighted score component for this category in tenders and quotations where applicable.

## 7.5 Environmental sustainability

Council is committed to procurement that supports environmental sustainability.

The procurement considerations in determining environmental sustainability include:

- reducing greenhouse gas emissions
- use of recycled materials
- recycling of used materials
- reducing waste to landfill

- reducing water consumption
- encouraging improved environmental management
- selecting products/services that have minimal impact on natural resources and biodiversity
- improving our ability to adapt to climate change.

Where practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within this category by applying a weighted score component for this category in tenders and quotations where applicable.

## 8 EFFECTIVE USE OF COUNCIL RESOURCES AND ACHIEVING BEST PRACTICE

### 8.1 Responsible financial management

The principle of responsible financial management will be applied to all procurement activities. Accordingly, the availability of existing funds within an approved budget, or source of funds, will be established prior to the commencement of any procurement activities for the supply of goods, services and works.

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.

### 8.2 Training

All relevant Council representatives will complete 'MAV Probity for Purchasing and Procurement' training as part of induction to ensure awareness of local government procurement risks and probity.

All relevant Council representatives with duties that involve the purchasing of good and services will undertake procurement training prior to being granted access to procurement systems.

In order to ensure existing Council representatives are up-to-date with the latest requirements of this Policy they will be required to participate in refresher training every two years.

Council representatives that breach this Policy will be required to undertake relevant refresher training immediately and may be subject to disciplinary action.

### 8.3 Managing suppliers

Council recognises the importance of effective and open working relationships with its suppliers and is committed to managing existing suppliers via performance measurements to ensure the benefits negotiated through contracts are delivered.

#### 8.3.1 Supply market development

A wide range of suppliers are encouraged to compete for Council work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:

- green suppliers;
- local, small to medium sized enterprises (SMEs) and Social enterprises;
- ethnic and minority businesses (e.g. Indigenous Business); and
- volunteer and community organisations.

## 9 COLLABORATIVE PROCUREMENT

In accordance with Section 108(c) of the Act, the Council will first give consideration to collaboration with other councils and public bodies, or utilise collaborative procurement arrangements, when procuring goods, services and works in order to take advantage of economies of scale.

Council representatives must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council. Any Council report that recommends commencing a procurement process must set out information relating to opportunities for collaborative procurement, if available, including:

- the nature of those opportunities, if any, and the councils or public bodies with which they are available
- why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

When collaborating with the Loddon Mallee Regional Procurement Network (LMRPN), Council will do so in accordance with the following:

- develop a consolidated contract register to identify joint procurement projects on an annual basis
- include in the consolidated contract register for collaboration consideration Council contracts with a minimum value of \$1 million per annum (per council), for the ongoing supply of goods or provision of services or works, other than projects that are unique to an individual council (e.g. unique construction or works projects)
- include other contracts which, due to the subject matter, nature or scope, are likely to deliver operational efficiencies if procured in collaboration with the LMRPN, must be included in the consolidated contract register for consideration as a possible joint procurement opportunity
- where collaborative procurement is to be pursued:
  - a pre-market approval submission will be submitted to each council and the LMRPN prior to commitment to collaboration, seeking delegation of contract approval to CEOs
  - the LMRPN will establish a Heads of Agreement that gives authority for a lead council to act as each Council's agent in the collaborative procurement.
  - the evaluation criteria that will apply to a collaborative procurement process may not align with Council's mandatory evaluation criteria as outlined in this Policy.
  - each of the councils who participate will be able to enter into a contract with the preferred supplier/s identified through the collaborative procurement process, or may choose as a group to enter into a contract using "opt-in" contract provisions during the contract term, or with the council which conducted the public tender.
  - each participating council must be involved in:
    - the initial decision to undertake the collaborative procurement
    - preparation of, and agreement to, the specifications
    - ensuring probity for the collaborative procurement
    - the acceptance of tender(s) and awarding of contract(s).

Furthermore, Council may collaborate with other councils or other agents such as MAV Procurement or Procurement Australia to procure goods, services or works, or utilise existing collaborative procurement arrangements for the procurement of goods, services or works

established through a public tender process where it provides advantageous, value for money outcomes for Council.

The following principles will be applied when utilising procurement agents (e.g. MAV Procurement and Procurement Australia) and whole of government contracts:

- Council will use an agent where potential cost savings exist
- the use of procurement agents must not eliminate the ability of suppliers locally and within our region to submit a quotation or tender.

## 10 DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Term	Definition
Act	The Local Government Act 2020.
Collaborative procurement arrangement	A contract established by the Council, government or a nominated agent, such as Procurement Australasia (PA), Municipal Association of Victoria (MAV), Loddon Mallee Regional Procurement Network of Councils or a local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Commercial in confidence	Information that, if released, may prejudice the business dealings or commercial interests of Council or another party e.g. prices, discounts, rebates, profits, methodologies and process information.
Conflict of interest	As defined in Part 6 Division 2 of the Local Government Act.
Corporate social responsibility (CSR)	Corporate Social Responsibility (CSR) is about taking positive action to demonstrate the Council's commitment to the local community and environment on which it impacts.
Council	Loddon Shire Council.
Council representative	Includes all Council permanent employees, temporary employees, contractors, volunteers and consultants while engaged by Council. It also includes elected representatives (the Mayor and Councillors) or Administrator(s) appointed to act in this capacity.
Delegations	Delegations define the limitations within which Council representatives are permitted to work. Delegation of levels of authority allows specified Council representatives to approve certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity. Procurement delegations provide accountability and confidence to Council and the public that purchasing activities are dealt with at the appropriate level. Procurement authorisation limits are documented in Council's Level of Authority Delegations. This document identifies Council representatives authorised to make procurement commitments for goods, services and works up to nominated values on behalf of the Council.

<b>Term</b>	<b>Definition</b>
Expression of interest (EOI)	An invitation for persons to submit interest in providing goods and/or services generally set out in the overview of requirements contained in the document. This invitation is not an offer or a contract.
IBAC	The Independent Broad-based Anti-corruption Commission.
Indigenous business	A business that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s) (consistent with Supply Nation's definition). <a href="https://supplynation.org.au/benefits/indigenous-business/">https://supplynation.org.au/benefits/indigenous-business/</a>
Local business	A commercial business with an operational premise that is physically located within the municipal borders. Includes international and national commercial businesses provided there is an operational premise that is physically located within the municipal borders which has staff working within the municipal borders (such as IGA, Caltex).
Loddon Mallee Regional Procurement Network (LMRPN)	The 10 Councils comprising the LMRPN, being the Buloke Shire Council, Campaspe Shire Council, Central Goldfields Shire Council, City of Greater Bendigo, Gannawarra Shire Council, Loddon Shire Council, Macedon Ranges Shire Council, Mildura Rural City Council, Mount Alexander Shire Council and Swan Hill Rural City Council.
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, and 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.
Procurement Team	The Manager Financial Services, Procurement Coordinator, Procurement Officer and Accounts Payable Officer.
Schedule of rates contract	A standing offer arrangement based on a schedule of rates contract that sets out rates for goods and services which are available for the term of the agreement but without a commitment to purchase a specified value or quantity of goods or services.
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.
Suppliers	Any organisation which supplies goods or services to Council including but not limited to, contractors, subcontractors, manufacturers, wholesalers, retailers and consultants.

Term	Definition
Supplier panels	Panels of suppliers or vendors who are able to supply goods, works or services. Panels are based on categories such as trade services and plant hire. Panels mean that Council representatives are able to request a quotation (from suppliers on the panel) without publicly inviting tenders (noting that the number of quotations requested still needs to be compliant with the policy). Preferred Supplier Panels are also known as Approved Supplier Lists or Approved Contractor Lists. Suppliers or vendors must submit a tender application and be selected to become part of a supplier panel.
Sustainable procurement	Encompasses economic, social and environmental sustainability procurement practices.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Thresholds	The value above which a procurement, unless exempt, is subject to the mandatory procurement processes.
Total contract sum	The total value of the contract including: <ul style="list-style-type: none"> <li>• costs for the full term of the contract, including any options for either party to extend the contract;</li> <li>• applicable goods and services tax (GST);</li> <li>• anticipated contingency allowances or variations, and</li> <li>• all other known, anticipated and reasonably foreseeable costs.</li> </ul>
Value for money	Value for money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors, including: <ul style="list-style-type: none"> <li>• non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, service and support, and</li> <li>• cost-related factors including whole life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.</li> </ul>

## 11 HUMAN RIGHTS STATEMENT

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2006). Loddon Shire Council is committed to consultation and cooperation between management and employees. The Council will formally involve elected employee Health and Safety Representatives in any workplace change that may affect the health and safety of any of its employees.

## 12 REVIEW

The Manager Financial Services will review this policy for any necessary amendments no later than 2 years after adoption of this current version.

## APPENDIX 1 – PROCUREMENT THRESHOLDS

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services and works in accordance with these thresholds:

Estimated expenditure	Minimum procurement process
Less than \$2,000 (minimum spend competition threshold)	<ul style="list-style-type: none"> <li>A verbal quotation</li> </ul> OR <ul style="list-style-type: none"> <li>Advertising on the eProcure portal</li> </ul>
\$2,000 to \$9,999	<ul style="list-style-type: none"> <li>A minimum of ONE written quotation invitation must be requested and a copy attached to the purchase order</li> </ul> OR <ul style="list-style-type: none"> <li>Advertising on the eProcure portal</li> </ul>
\$10,000 to \$49,999	<ul style="list-style-type: none"> <li>A minimum of TWO written quotation invitations must be requested or advertising on the eProcure portal</li> <li>A purchase order must also be issued according to the preferred quotation offering a value for money outcome and a copy of the quotations attached to the purchase order</li> <li>Where appropriate, details may also be treated as a registered contract and recorded in Council's contract management system</li> </ul>
\$50,000 to \$299,999 for goods, services and/or Works	<ul style="list-style-type: none"> <li>Selective (at least THREE) or Public written invitations must be requested by issuing a written Request for Quotation or Tender by the Procurement Team on the eProcure portal</li> <li>Public advertising via newspapers and Council's website may not be required. A suitable closing date and time must be nominated</li> <li>Quotations returned by the nominated closing date and time must be evaluated using the pre-determined evaluation criteria and a recommendation made in favour of the supplier offering a value for money outcome</li> <li>The original supplier's quotations and approval report signed by the appropriate delegated Council representative must be recorded in Council's Contract Management System</li> <li>The approval report must also be attached to the purchase order</li> <li>If quotations or tenders sought without public advertising equals or exceeds \$299,999 for goods, services and/or works respectively, an alternative process compliant with the Act must be used</li> </ul>
Public tender threshold (\$300,000 or more for goods, services and/or works); or cumulative spend threshold over a 12 month (rolling period) is expected to exceed \$300,000	<p>Tender process as outlined in this policy and any related procedures or guidelines</p> <p>Cumulative spend threshold - where the cumulative spend with one supplier or for one category of spend (e.g. road construction) over a 12 month (rolling period).</p>

In the event that Council undertakes a compliant public tender process and does not receive any tenders or rejects all tenders on the basis they did not meet council's specifications outlined in the tender document, it has two options:

- Recall tenders** either with or without amending the procurement requirements and the tender documents.
- Seek an alternative means** of delivering the service or works required under the tender without changing the requirements (including undertaking the service or works itself). If a

council seeks to appoint a contractor who did not submit when tenders were originally called it must ensure:

- the grounds for rejecting the tender(s) received are on the basis they did not meet council's specifications outlined in the tender document, and/or did not provide value for money to council, and
- it is highly unlikely that another competitor would submit a tender if the council retendered for the goods, services and/or works, and
- the terms on which council intends to engage the third party contractor are the same as the specifications in the original tender documents, and
- engaging the third party contractor will provide value for money to council.

If Council amends the scope or intent of its requirements for goods, services or works so that it is materially different this would constitute a new contract. Council should then complete a new public tender process.

## APPENDIX 2 – EXEMPTIONS FROM THRESHOLDS AND COMPETITION

The following circumstances are exempt from the general publicly advertised tender, quotations and expression of interest requirements.

The Chief Executive Officer (CEO) may approve ad-hoc exemptions in exceptional circumstances if it can be demonstrated that it is in the best interests of the community to do so.

The public tender threshold and related exemptions also apply to collaborative procurements.

Exemption	Explanation, limitations, responsibilities and approvals
1. A contract made because of genuine emergency or hardship	Where the Director/CEO (within financial delegation) has resolved that the contract must be entered into because of an emergency e.g. to provide immediate response to a natural disaster, declared emergency, etc.
2. A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party	<p>This general exemption allows engagements:</p> <ul style="list-style-type: none"> <li>• With another government entity or government owned entity e.g., Federal, State or Local Government or an entity owned by the Federal, State or Local Government.</li> <li>• In reliance on 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).</li> </ul>
3. Extension of contracts while Council is out to market to ensure continuity of supply of goods/services/works to Council.	<p>Allows the Director/CEO (within financial delegation) and/or Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected.</p> <p>This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</p>
4. Professional services unsuitable for tendering	<ul style="list-style-type: none"> <li>• Legal services</li> <li>• Insurance</li> <li>• Loans (lenders may include banking institutions or Treasury Corporation of Victoria)</li> <li>• Purchase of land</li> <li>• Electoral or valuation services</li> <li>• Payroll expenses and deductions</li> <li>• Refunds</li> <li>• Professional membership payments and subscriptions (must relate to the position held).</li> </ul>
5. Novated contracts	Where the initial contract (which has been entered into in compliance with the Act) has been extinguished and has been replaced with another, ensuring due diligence has been undertaken in respect to the new party.
6. Information technology resellers and software developers	Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
7. Statutory compulsory monopoly insurance schemes	<ul style="list-style-type: none"> <li>• Motor vehicle compulsory third party</li> <li>• WorkCover</li> </ul>

Exemption	Explanation, limitations, responsibilities and approvals
8. Sole sourcing	<p>Where goods, services or works being procured are of such a specialised nature that there are insufficient known suppliers to meet the requirements of this Procurement Policy (sole sourcing).</p> <p>The sole sourcing process must only be utilised where:</p> <ul style="list-style-type: none"> <li>• there are insufficient known suppliers to meet the requirements of this Procurement Policy</li> <li>• the marketplace is restricted by statement of license or third-party ownership of an asset (excluding public utility plant)</li> <li>• Council is party to a joint arrangement where Council jointly owns the Intellectual Property with a third party provider.</li> </ul> <p>Purchasing via the sole sourcing process is subject to prior approval from the Director/CEO (within financial delegation) and/or Council.</p> <p>Council deals with a number of core service sole suppliers. There is no market to test and obtain multiple quotes. Examples of core service sole suppliers are:</p> <ul style="list-style-type: none"> <li>• Library service – North Central Goldfields Regional Library Corporation</li> <li>• Water – Coliban Water, Grampians Wimmera Mallee Water and Goulburn Murray Water</li> <li>• Advertising (newspapers and magazines).</li> </ul>
9. Aboriginal and Torres Strait Islander businesses or social enterprises	<p>Council representatives have an exemption to directly purchase from social enterprises or Aboriginal and Torres Strait Islander businesses where the estimated value of the procurement is up to \$20,000 (excluding GST). The identified business must be registered or certified with an appropriate and relevant organisation such as Kinaway, Supply Nation, or Social Traders. The procuring Council representative must first determine whether an Aboriginal and Torres Strait Islander business or social enterprise could deliver the required goods, work or service on a value for money basis.</p>
10. Other specific Council exemptions	<ul style="list-style-type: none"> <li>• Organisations that are auspiced by Council.</li> <li>• Shop supplies (including artwork) purchased for the purpose of resale are exempt from obtaining quotes i.e. this applies to business units that operate a retail outlet and are required to purchase stock for resale to the public. This is due to the nature of the goods that are offered for resale, which may be unique.</li> <li>• Performers, facilitators, presenters and artists (one off or short term engagement) – business units that engage performers as part of their performance program are exempt from the conditions of this Policy. Performers are engaged based on potential earnings that can be raised from their engagement.</li> <li>• Artworks, statues and monuments – it is not practical to obtain multiple quotes for artworks, statues and monuments as each piece of work is unique. Items of artworks, statues and monuments are purchased within annual budget restraints but a minimum of one quote must be obtained.</li> <li>• Plant and equipment servicing and spare parts – plant and equipment purchased by Council requires servicing at regular intervals. In certain instances, to maintain a valid warranty, works need to be carried out by recognised suppliers and therefore Council will utilise the services of the manufacturers from whom the plant or equipment was originally</li> </ul>

Exemption	Explanation, limitations, responsibilities and approvals
	<p>purchased. This clause also applies to specific manufacturer spare parts purchased to complete works on plant and equipment at depot sites.</p> <ul style="list-style-type: none"> <li>• Employment contracts for staff employed directly by Council are specifically excluded from this Policy.</li> </ul>
11. External grants	<p>In accordance with the Best Practice Guidelines, all external grants are exempt and do not require an exemption form to be completed. Refer to External Grants Procedure for further details.</p> <p>In some instances Council is able to access funding Grants on behalf of other community based groups to facilitate Community based projects, in this instance, the Grant is applied for on behalf of the organisation through the Council and therefore is paid to the nominated community group. The arrangement may be with a specific business that will provide the service the grant is funding, and who may assist with the grant application, and is often required to be identified and costed before the application can be submitted.</p>
12. Council approved panel contracts	<p>Where Council has resolved to approve a panel contract and increased the CEO delegation for that panel contract, the tender threshold will be increased in accordance with the CEO delegation for the life of the approved panel contract.</p>