

Procurement of Goods, Services and Works Policy

Policy - CP083

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1. The purpose of this policy is to:

Clearly set out the requirements to be met by all staff, Councillors and temporary employees when procuring and/or contracting goods and services on behalf of Mildura Rural City Council.

2. Policy statement

Section 108 of the *Local Government Act 2020* (the Act) requires Council to prepare, approve and comply with a procurement policy that outlines the principles to be applied to the purchase of all goods, services and works.

The objectives of this policy are to:

- provide guidance to ensure consistency and control over procurement activities
- demonstrate accountability to stakeholders
- provide guidance on ethical behaviours in local government purchasing
- support the application of best practice in purchasing
- obtain the right outcome when purchasing goods and services.

3. Principles

3.1 Fundamental procurement practice principles

Listed below are the fundamental procurement practice and principles that must be applied to all procurement irrespective of its value and complexity:

- Value for money
- Open and fair competition
- Accountability

- Risk management
- Probity and transparency
- Sustainable and social procurement objectives.

3.1.1 Value for money

The concept of value for money is centred on obtaining the best quality and value for the price and ensuring that the quality of the goods/services/works meet Council's criteria and cost constraints. Obtaining value for money does not mean that Council is obliged to accept the lowest price.

3.1.2 Open and fair competition

All prospective suppliers/vendors must be treated (and be seen to be treated) fairly in an open and transparent manner with the same access to information about the proposed procurement to enable them to submit quotations/tenders on the same basis. It is imperative that Council treats all prospective suppliers/vendors in the same manner without any bias or perception of bias.

3.1.3 Accountability

Council will have a consistent approach to procurement across the organisation through having in place a robust 'procurement framework' that sets out the guidelines and the processes for all procurement activity, as well as nominating/identifying the relevant Council officers and their responsibilities in relation to procurement.

3.1.4 Risk management

All procurement carries some risk and it is expected that Council's risk management processes and tools will be applied to all procurement activities to mitigate any identified risks.

This includes a requirement, where appropriate, that suppliers or contractors will meet the criteria to be an approved supplier or contractor.

Officers should refer to Council's Risk Management Framework and associated Risk Management Policy (CP024) and procedures.

3.1.5 Probity and transparency

In all commercial dealings, the highest standards of honesty must be observed. Council must conduct its business in a fair, honest, and open manner, demonstrating the highest levels of integrity consistent with the public interest.

Council's Public Interest Disclosure Policy (CP014) establishes a framework for reporting disclosures of corrupt, improper or specified contact, as defined in the *Public Interest Disclosure Act 2012*.

3.1.6 Sustainable and social procurement objectives

Activities should consider sustainable and social procurement to enhance strategic procurement to effectively contribute towards building stronger communities and meeting the wider social objectives of the Council.

3.2 General principles

3.2.1 Methods of purchase

Standard methods for purchasing goods, services and works shall be:

- petty cash by exception
- purchasing card
- electronic purchase order following a quotation process in accordance with thresholds and process
- under contract following a tender process
- using collaborative purchasing arrangements not limited to but including other councils, Municipal Association of Victoria Procurement, Procurement Australia Ltd, Victoria State Government, and Commonwealth Government where appropriate, Regional Procurement Excellence Network, Regional Waste Management Groups or other bodies.

3.2.2 Treatment of GST

All monetary values stated in this policy include GST except where specifically stated otherwise.

3.2.3 Responsible financial management

The principle of responsible financial management must be applied to all procurement activities.

Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, must be established prior to the commencement of any procurement action for the supply of goods, services or works.

Council staff must comply with the expenditure of funds in accordance with their financial delegation.

3.2.4 Local Purchasing

Local Content / Economic Benefit

Council is committed to buying from businesses locally (within the Mildura Rural City Council municipality) and regionally (neighbouring municipalities), where such purchases may be justified on value for money grounds. Of primary importance is the need to encourage open and effective competition to ensure the best possible outcomes for Council.

Council may consider selection of products or services that maximise these outcomes provided other evaluation criteria are met.

Council requires that as a minimum, all evaluation criteria for tenders and electronic requests for quotations must include the following:

Evaluation criteria	Minimum weighting
Price	30%
Local Purchasing	5%

A supplier of goods, services or works who maintains a workforce and whose business premise is physically located within 30kms of the Mildura Rural City Council City local government boundary (5 points).

Evaluation criteria	Minimum weighting
The social and sustainable outcomes provided to	10%
the community through this procurement activity	

Out of the maximum criteria of 10 points you must allocate a maximum of 2 points to each of the criteria below. In the event that Value for Money can be demonstrated by changing the allocation of 2 points or removing one or more of the criteria, General Manager Approval is required:

- Businesses that support the local economy (2 points)
- Businesses that minimise impacts upon the environment (2 points)
- Products that reduce emissions, consume minimal energy, water or other resources (2 points)
- Delivery of social outcomes, such as employment of indigenous people or people with disabilities (2 points)
- Promotion of gender equality, inclusion and diversity in the workplace (2 points).

3.2.5 Social and Sustainable Outcomes

Council is committed to sustainability and requires the consideration of sustainability in all its procurement activities.

Supporting Aboriginal and Torres Strait Islander businesses

Council is committed to the economic growth of Aboriginal and Torres Strait Islander businesses and is committed to ensuring it is an integral part of our procurement process.

Environmental Sustainability

Council is committed through its "Towards Zero Emissions Strategy 2021- 2050". As part of this effort, Council encourages suppliers to set similar goals. In evaluation of a procurement process, consideration will be given to suppliers who reduce the direct or indirect environmental impact of goods, services and works and can clearly demonstrate the ability to deliver environmentally sustainable outcomes

Social Sustainability

Social procurement may take the form of using an appropriate procurement opportunity to generate targeted employment for a specific population group.

This may include but is not limited to people with a disability, the culturally and linguistically diverse and promotion of gender equality, inclusion and diversity in the workplace and prevention of family violence.

3.3 Procurement processes and thresholds

3.3.1 Thresholds

Purchases of goods and services, and building and construction works must meet the minimum requirements specified in the following table:

Value	Requirement	Minimum Quotes Required
Up to \$4,999	No quotation	0
\$5,000 to \$24,999	Request for quotation*	1
\$25,000 to \$49,999	Request for quotation*	2
\$50,000 to \$249,999 goods and services or works	Electronic request for quotation (Equote) *	3
\$250,000 and over goods and services or works	Public tender process	

^{*} Must request a quote from a local supplier if the goods, services or works are available locally

Note: The above thresholds are inclusive of:

- applicable taxes (e.g. GST)
- any other known foreseeable cost (e.g. delivery).

3.3.2 Tenders

In accordance with sub-section 108(3)(a) of the Act, the purchase of all goods and services where the estimated expenditure exceeds \$250,000 (including GST) must be undertaken by public tender as per the thresholds directed by Council (unless an approved exemption has been granted).

Public tenders may be called for the purchase of goods, services and works for which the estimated expenditure is below the stated threshold if a better procurement outcome may be achieved.

Council will use its nominated online procurement portal to provide public opportunity to bid for the provision of goods services or works. It will determine closing times and dates for public tenders. Each tender will comprise a series of electronic documents. Documentation will clearly state the requirements of the tenderer and include a return schedule. Late tenders will not be accepted. Non-conforming tenders may not be considered by Council. If innovative or alternative tenders are to be considered, they should accompany a conforming tender.

Multi-stage tenders

Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

Tender evaluation

Value for money is the essential test against which any procurement output is evaluated. It is essential that the assessment of submissions is robust, systematic, and unbiased to ensure the application of proper processes and the achievement of the procurement objectives.

Achieving user and system requirements, quality standards, and service benchmarks may be considered more important than obtaining the lowest purchase/tender price. Value for money is the basis for comparing alternatives so that the optimal offer can be selected.

All submissions must be evaluated in a consistent manner against the evaluation criteria and weightings adopted for the tender and outlined in the tender documentation. Tender submissions must be assessed on what has been provided in the tender submission. Past performance can only be considered if the information is contained within a Council contract management system and the supplier/contractor is formally aware of their past performance. The use of a weighted matrix analysis must be used to analyse and compare tenders in a detailed and consistent manner.

A tender evaluation panel of at least three members must be established for each tendering process. One of the three members must be independent of the branch that instigated the tender. When evaluating a tender for which an internal Council unit has submitted a response, at least one member of the panel must be a person who is independent of Council and who has expertise relevant to the tender. When an internal Council unit is not a respondent to a tender, it is not a requirement to have a person who is independent of Council as a member of the panel but this does not preclude these persons as panel members. The tender evaluation report must disclose the names and positions of the panel members. All panel members must complete a declaration of confidentiality and conflict of interest.

A due diligence investigation of the preferred or short-listed tenderers for all high value and/or highly complex projects may be considered by the Chief Executive Officer or relevant general manager to ensure that the tenderers have the capacity and financial stability to comply with the requirements of the contract.

The tender evaluation process may necessitate requests for further information. If material information is omitted, the panel may determine the tender is non-conforming. It is important that this process remains open and transparent, and as such, the same additional information should be sought from all tenderers.

Post-tender negotiations

The objective of post-tender negotiations is to obtain the optimal solution and commercial arrangements and not merely the lowest price. The conduct of any discussions after the close of the tender advertising period and before the selection of the preferred tenderer(s) can be considered a clarification activity prior to entering into the formal assessment of the tenders.

Following selection of preferred tenderer(s), Council must exhaust negotiations with one tenderer before beginning negotiations with another tenderer. These negotiations must only be undertaken with the preferred tenderer or the shortlisted tenderers. The same general questions and propositions must be put to all short-listed tenderers. A detailed record must be kept of the negotiation process for audit purposes and details of meetings are to be treated as commercial-inconfidence.

Council must not use the negotiations as an opportunity to trade the price of one tenderer against that of another tenderer.

Matters that could be discussed include additional value adding options, specific contract management arrangements, accountable personnel for various contract stages or commitments, further intellectual property transfer opportunities, warrantees, service/supply arrangements etc.

While the Council may negotiate with tenderers to determine the award of the contract, it must have regard to the scope of the Request for Tender at all times. Post-tender negotiations must not materially alter the scope or intent of the tender. Any material deviation from the scope or intent of the tender would make the tender process void.

Council may also request preferred or short-listed tenderers to provide a best and final offer (BAFO) in relation to all or certain aspects of their tender.

3.3.3 Quotations

Request for quotation: \$5,000 to \$24,999

Council must seek a minimum of one quotation. Subject to it being within budgetary constraints and demonstrating value for money, the order may be placed with that supplier or contractor.

When the goods, services or works are available locally at least one quote must be sourced from a local supplier.

Details of the suppliers contacted and their quotations must be recorded and available for audit purposes in Council's electronic document records management system, or in Authority.

Request for quotation: \$25,000 to \$49,999

Council must seek a minimum of two quotations. When the goods, services or works are available locally, at least one quote must be sourced from a local supplier.

The quotation offering best value shall be confirmed, subject to it being within budgetary constraints, and the order placed with that supplier or contractor.

Details of the suppliers contacted and their quotations must be recorded and available for audit purposes in Council's electronic document records management system.

Where the obtaining of two quotes is either inefficient or impractical, written authorisation must be provided by exemption via council exemption process.

Request for quotation: \$50,000 to \$249,999

Council must seek a minimum of three quotations through Council's eprocurement system. Public advertising is not required but may be considered in order to engage a broader possible supplier market. Quotations must be electronically returned by the nominated closing date, be subject to the same evaluation process that applies to public tenders, and a recommendation made in favour of the supplier offering the best value for money outcome.

The invited suppliers quotations and signed contract documentation is to be recorded and maintained in Council's electronic records management system.

Where the obtaining of three quotes is either inefficient or impractical, written authorisation must be provided by exemption via Council's exemption process.

3.3.4 Supply by contract

The provision of goods, services and works by contract potentially exposes Council to risk.

Council will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses
- requiring security deposits or bank guarantees where appropriate
- detailed and appropriate tender specifications, which may include referring specifications to relevant experts
- requiring contractual agreement before allowing the commencement of work
- use of or reference to relevant Australian Standards
- effectively managing the contract, including monitoring and enforcing performance.

Contract terms

Terms and conditions must be settled in advance of any commitment being made with a supplier. All contractual relationships must be documented in writing based on standard terms and conditions or a specifically written contract.

Standard conditions of contract, as per relevant Australian Standards, should be utilised where practicable.

Where this is not possible, advice should be sought from senior management who may make a determination regarding engaging appropriate legal advice.

3.4 Delegations and internal controls

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes. This enables the Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity.

Council staff

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

- acceptance of tenders
- acceptance of quotes
- contract term extensions (within authorised budget)
- credit card purchases.

Delegations reserved for the Council

Procurement activities which exceed the Chief Executive Officer's financial delegation must be approved by Council unless another instrument of delegation instrument is in place. This may be in the form of an alternative legislative or Council resolution. The Chief Executive Officer may exercise financial delegation in excess of \$1,000,000 following an approved Council resolution.

Internal controls

The Chief Executive Officer will maintain a framework of internal controls over procurement processes that will ensure:

- there is sufficient segregation of staff duties involved in and responsible for a transaction end-to-end
- transparency in the procurement process
- a clearly documented audit trail exists for procurement activities
- appropriate authorisations are obtained and documented
- systems are in place for appropriate monitoring and performance measurement
- documentation comprising the contract is signed by both parties before works commence.

3.5 Exemptions

Council has, in certain circumstances, an exemption process from this policy as well as exemptions from the Act as outlined below. (Exemptions from Council policy can be obtained via Council's exemption process.)

Sub-section 108(3)(d) of the Act requires Council to determine circumstances where Council can enter into a contract without first having put that contract to public tender.

Emergency or urgent situation

Situations where this may occur include:

- the occurrence of a natural disaster such as storm, flooding, bushfire, pandemic or epidemic that may require the immediate procurement of goods, services or works to provide response or relief
- the occurrence of an event such as wilful damage flooding or fire at a Council property which impacts business continuity.

The definition of urgent or emergency expenditure is not intended to be a convenient fall-back position for last minute procurement that could reasonably have been expected to be purchased under standard processes in the normal course of business.

Approval for urgent or emergency expenditure under this section may be provided by the Chief Executive Officer or general manager regardless of whether the expenditure exceeds their financial delegation.

Unique item/s expenditure

Some items are of such a unique character that standard purchasing processes do not apply. An example of a "unique" item purchase is the purchase of art works for Mildura Arts Centre.

In these circumstances, written authorisation for the purchase must be provided by the Chief Executive Officer and recorded in Council's electronic records management system demonstrating the rationale to not engage the quotation or tender thresholds as detailed in this policy.

Essential service provision or other government entity

Certain bodies or authorities will only allow works to be conducted by themselves or their contractors on their assets. Such bodies and organisations are, but not limited to, Telstra, Powercor, V/Line and Lower Murray Water.

Where Council is required to engage the services of an organisation to operate or a purchase from a contract made by another government entity, government-owned entity or other approved third party, such organisations are, but not limited to, the Environment Protection Authority, Victorian Auditor General's Office, Australian Taxation Office

and State Revenue Office.

Statutory compulsory monopoly insurance schemes

These include, but are not limited to, Insurance such as Victoria Managed Insurance Authority (VMIA), Motor vehicle compulsory third party Insurance and WorkCover.

Information technology resellers and software developers

This provision 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 or the reseller, maintenance and support contract for the software.

Legal Services

This provision allows for Council to obtain legal services without using any contracted panel arrangements.

Chief Executive Officer Exemption

The Chief Executive Officer may grant an exemption where it can be clearly demonstrated that a public tender process will not be in the best interest of the organisation or community to do so.

3.6 Collaborative Procurement

In accordance with section 108(c) of the Act, Council will 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 reports in regard to procurement must set out information relating to opportunities for Collaborative Procurement including:

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

Council may collaborate with other councils or other agents such as Municipal Association of Victoria (MAV) Procurement, Procurement Australasia or state and federal government procurement contracts 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 an advantageous, Value for Money outcome for the Council.

The Evaluation Criteria as detailed in this policy must be considered when utilising collaborative procurement opportunities and whole of government contracts.

3.7 Confidentiality

The confidentiality of all information provided in the tendering and quoting process must be fully preserved. This includes the forwarding and discussing of information including quotations to other parties, both internal and external, who are not involved in any formal or informal evaluation process.

3.8 Conflict of interest

Councillors and Council staff must comply with the requirements of Council's Conflict of Interest Policy (CP057) and Gifts Policy (CP095).

The Local Government Act 2020 outlines two types of Conflict of Interest:

a) Material

Any Councillor or Council staff member involved in the decision to award a tender or quote who determines that they have a material conflict of interest under the Act they must remove themselves immediately from the process.

b) General

An evaluation panel member who has a general conflict of interest with a respondent must make a declaration to the Procurement Unit. The Manager Financial Services and/or a member of the Executive Leadership Team will make a determination as to whether that declaration presents a conflict of interest and whether the person can participate in the evaluation panel.

If in doubt as to whether you should be involved in a procurement decision due to a potential conflict of interest, you should remove yourself from the panel.

3.9 Record management

Staff are responsible for ensuring all documents received from suppliers and Council generated documents associated with a procurement process are completed to the standard required using designated Council templates and maintained in the required information management system(s).

3.10 Order "splitting"

Order "splitting" is defined as the practice of dividing the full cost of a single purchase into a number of smaller segments to intentionally avoid the requirement to seek formal tenders or quotations. This practice is prohibited by Council. Council will identify "order splitting" in its procurement process through regular reporting systems that identify multiple orders raised on the same supplier.

4 Who is responsible for implementing this policy?

Chief Executive Officer	Adhering to policy and procedures as listed in this document and maintaining a framework of internal controls over procurement processes
General Managers	Understanding, communicating, applying the policy and the framework of internal controls over procurement processes
Managers	Understanding, communicating, applying the policy and the framework of internal controls over procurement processes
Procurement Team	Responsible for reviewing policy Responsible for communicating policy
Strategic Management Team and Executive Leadership Team	Review the draft policy and recommend changes if appropriate
All staff	Adhering to policy and procedures as listed in this document

5 Definitions

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 (LMRPN) 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
Conflict of Interest	Councillors and Council staff must comply with the requirements of Council's Conflict of Interest Policy (CP057) and Gifts Policy (CP095) as prescribed by the Local Government Act 2020.
Contract	An agreement between Council and a supplier of goods and/or services evidenced by a legal binding document containing conditions relating to the supply of goods/services and responsibilities assigned
Contractor	An external person/business that provides a service to Council

Contract owner	Officer who is ultimately accountable for the contract/project. (This is normally in line with Financial Delegations or Delegation of Council).
Contract supervisor	Council officer or agent assigned by the contract owner to have the responsibility for the operational administration of the contract
Goods	A physical or tangible item that does not include a labour component
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
Multi-stage tender	Tender process requiring an Expression of Interest (EOI) to test the market "expertise" followed by a Request for Tender (RFT)
Pre-qualified Supplier or Contractor	A contractor or supplier becomes pre-qualified when the following requirements are met: Certificate of currency provided for:
	Public liability insurance to a minimum of A\$10 million where physical services are provided on Council sites
	ii. Professional indemnity insurance to a minimum of A\$5 million where intellectual services are provided
	iii. WorkCover insurance
	OH&S system(s) in place that is/are acceptable to Council
	 copies of current trade certification, license(s) permits and competencies relevant to the work required are provided referee checks indicate suitability to be engaged by Council.
Purchasing	The process by which an organisation contracts with another party to obtain the goods and services required to fulfil its business objectives

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Procurement	Procurement is a process and incorporates a range of elements: from the definition of business needs and the preparation of a business case; through assessment of market capability, the development of procurement strategies and the calling of tenders for example; to managing contracts, evaluating performance and cost, and disposals.
Quotation	Written advice from a supplier confirming price, terms and conditions for goods and/or services
Service	A contract for service is a contract for some task to be done rather than for the supply of materials or goods. It normally involves the provision of labour and/or professional services.
Social procurement	Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.
Public Tender	Contracts for goods or services; and the carrying out of works above \$250,000
Sub-contractor	Service provider to the principal contractor - must comply with the same requirements as the contractor, and must provide the same documentation as the contractor to Council's contract owner
Tendering	Formalised process of invitation, utilising Australian Standards documentation, to submit a price for the supply of goods and/or services
Works	The construction, alteration, extension, restoration, repair, demolition or dismantling of buildings, structures or works that form, or are to form, part of Council's assets whether or not the buildings, structures or works are permanent

6. Legislation and other references

6.1 Legislation

The applicable Acts and regulations include, but are not limited to, the following:

- The appropriate Australian Standard code of tendering conditions of contract and specifications AS 4120-1994
- National Competition Principles Act 1995
- Freedom of Information Act 1982
- Privacy & Data Protection Act 2014
- Local Government Act 2020
- Trade Practices Act 1974
- Occupational Health and Safety Act 2004
- Local Government (General) Regulations 2015
- Public Interest Disclosure Act 2012.

6.2 Other References

External Documents

- Australian Standard 4000 1997: General Conditions of Contract
- Australian Standard 4122 2010: Conditions of Contract for engagement of Consultants
- Australian Standard 4305 1996 Conditions of Contract for Minor Works (projects up to \$250,000)
- Australian Standard 4902 2000: Conditions of Contract for Design and Construct
- Australian Standard 2124-1992: General Conditions of Contract
- General Conditions Provision of Services
- Social-Procurement A Guide For Victorian Local Government 2010
- Environmental Purchasing Guide 2003: Department of the Environment and Heritage
- Local Government Guidelines Department of Planning and Community Development, Local Government Victoria

Internal documents

This policy is implemented in conjunction with the overriding Procurement process, incorporating the following:

- Procurement Guidelines and processes
- Pre-approved Contractors and Suppliers' Application
- Risk Management Framework and policy

- Financial Delegations
- Conflict of Interest Policy
- Gifts Policy
- Public Interest Disclosure Policy.

6.3 Risk assessment reference

Risk category	✓	Risk category	✓
Asset Management		Financial Sustainability	✓
Committees		Human Resource Management	
Compliance Logal & Bagulatory	✓	Leadership & Organisational Culture	
Compliance – Legal & Regulatory Contract Management	1	Occupational Health & Safety	
Contract Management	✓	Organisational Risk	
Contract Tendering & Procurement		Management	
Corporate Governance		Project Management	✓
Environmental Sustainability		Public Image and Reputation	✓

6.4 File number and Records Manager reference number

• 18/02/01