



## PROCUREMENT POLICY

Responsible Officer: <b>Procurement Specialist</b>	Adoption Date:	
	Approved By:	Council
Authorising Officer: <b>Director Corporate Services</b>	Review Date:	
	Policy Type	Major Council Policy

### PURPOSE

The *Local Government Act 1989* (the Act) requires Rural City of Wangaratta (Council) to comply with an approved Procurement Policy (Policy) that applies to the purchase of all goods, services and works.

The purpose of this Policy is to:

- provide policy and guidance to the Council to ensure consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- demonstrate the application of best practice principles; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

### OBJECTIVES

The objectives of this Policy are to:

- establish a framework to achieve value for money and continuous improvement in the provision of services to the community;
- ensure Council resources are used efficiently and effectively;
- achieve compliance with relevant legislative requirements, including probity, transparency, accountability and risk management;
- support the Council's corporate strategies; and
- use strategic procurement practices and innovative solutions, including making use of collaborative and partnership opportunities.

## **LEGISLATIVE COMPLIANCE**

The Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act;
- Council's policies;
- Council's Code of Conduct; and
- Local Government Procurement Best Practice Guidelines.

## **SCOPE**

This Policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council staff and all persons undertaking procurement on behalf of Council.

## **CONDUCT OF COUNCILLORS AND COUNCIL STAFF**

Councillors, Council staff and all persons undertaking procurement on behalf of Council are to ensure they:

- Conduct themselves ethically and with integrity;
- Comply with Council's Gifts, Benefits and Hospitality Policy;
- Declare, and effectively manage, real, perceived and potential Conflicts of Interest;
- Maintain information security and confidentiality; and
- Comply with the relevant Codes of Conduct for Councillors and Council staff.

It is a requirement of Council that all Council staff involved in preparing a request for quote or request for tender, evaluating a proposal or placing a purchase order be trained in the use of, and comply with, this Policy.

## **PRINCIPLES**

All procurement shall be conducted in accordance with the following best principles, this Policy as a whole, and Council's Procurement Guidelines.

### **VALUE FOR MONEY**

Council will consider both cost and non-cost factors in determining value for money, including:

- Advancing Council's priorities;
- Fitness for purpose;
- Quality;
- Service and support; and
- Whole of life costs

Under section 186(4) of the Act, Council is not obligated to accept the lowest, or any, price when considering value for money.

### **OPEN AND FAIR COMPETITION**

Council will treat all current and prospective suppliers and contractors fairly and in an open and transparent manner without bias, or perception of bias.

### **ACCOUNTABILITY AND DELEGATIONS**

Councils Instrument of Delegation determines the levels of staff authority required for expenditure.

Measures which intentionally seek to avoid the requirement to give public notice, such as contract splitting, placing multiple orders, seeking multiple quotations with a single supplier, or engaging a single supplier under different guises, are considered to breach the requirement to call public tenders where threshold values would otherwise be reached.

### **RISK MANAGEMENT AND OCCUPATIONAL HEALTH AND SAFETY REQUIREMENTS**

Council will manage all aspects of its procurement processes in accordance with its Risk Management Policy and Occupational Health and Safety Policy in such a way as to minimise risk to a minimum standard required by law, or in accordance with relevant Australian Standards where applicable.

Council requires all contractors and service providers to comply with all legislative requirements, including but not limited to, their obligations under the Occupational Health and Safety Act 2004 (Vic). These are mandatory, and any non-compliance will disqualify prospective suppliers immediately.

### **PROBITY**

Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible audit scrutiny.

## **CONFLICT OF INTEREST**

Councillors and Council staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff involved in the procurement process, must:

- **Avoid** conflicts where possible, whether actual, potential or perceived, arising between their official duties and their private interests. Private interests include the financial and other interests of Councillors and Council Staff, plus their relatives and close associates;
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise. Council Staff must make their manager, or the chairperson of the relevant tender assessment panel or board aware and allow them to decide whether the officer should continue to be involved in the specific Procurement exercise;

- **Observe** Council guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

## LOCAL CONTENT

Council is committed to the strategic use of local suppliers to encourage economic development where such purchases are justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services and works from suppliers and contractors within a 100km radius from Wangaratta by applying a weighted score component for local content.

Council will encourage its vendors to also source their own goods, materials and services from suppliers and contractors within a 100km radius in so far as this is feasible and commercially viable.

## TENDERS AND QUOTATIONS

Tenders and Quotations shall be conducted in accordance with the Act, this Policy and the Procurement Manual, unless approved exemptions are available.

All values are for the full contract term (including optional terms), and including GST, unless specified otherwise.

### PURCHASING METHODS

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

- Petty cash;
- Purchasing cards;
- Purchase order following a quotation or tender process; or
- Under purchasing schemes including collaborative purchasing arrangements with other Councils, and commercial schemes such as those provided through Procurement Australia (PA), Municipal Association of Victoria (MAV), State Procurement Contracts etc

### PURCHASING UNDER \$150,000

For procurements under \$150,000 Council staff are required to follow processes in accordance with the Procurement Guidelines, and within approved delegations.

Purchase orders must be raised in Council's Technology One finance system. Reference to the quote is to be included on the purchase order.

A public tender process may be used for values less than \$150,000 if this is within Council's interest and will produce a better outcome under the context of this Policy.

## **PURCHASING OVER \$150,000**

For procurement over \$150,000 Council staff are required to follow processes in accordance with the Procurement Guidelines, and within approved delegations:

- a) For procurement where there is an existing Panel Contract, staff are required to:
  - Obtain quotes from suitable Panel members;
  - Raise a Purchase order in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- b) Where there is a Contract in place and Council has appointed a tendering agent, for example Procurement Australia, staff are required to:
  - Obtain quotes from the Contracted Suppliers;
  - Raise a Purchase order in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- c) Where no Contract exists, Council may determine to seek Expressions of Interest where there is likely to be many tenderers, tendering will be costly, or the procurement is complex, or there is uncertainty as to the willingness and/or interest of suppliers or contractors to undertake the proposed works.

Where Expressions of Interest are to be sought, staff are required to:

- Use the appropriate Expression of Interest template;
  - Conduct a publicly advertised, open and competitive Expression of Interest process in accordance with the Procurement Guidelines;
  - Once Expressions of Interest have been received, develop the Request for Tender using the appropriate template;
  - Conduct a closed tender in accordance with the Procurement Guidelines;
  - Raise a Purchase orders in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- d) Where no Contract exists, and Expressions of Interest are not sought, staff are required to:
    - Use the appropriate Request for Tender template;
    - Conduct a publicly advertised, open and competitive Tender in accordance with the Procurement Guidelines;
    - Raise a Purchase orders in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.

Publicly advertised Tenders will be listed on Council's website and in the Wangaratta Chronicle newspaper at a minimum.

Exemptions for advertising are set out in Section 186(5 and 5A) of the Act.

## **TENDER EVALUATIONS**

All Quotations and Tenders are to be evaluated in accordance with the Procurement Guidelines by an evaluation panel of no less than two (2) persons.

The evaluation panel will be established to independently evaluate each tender or quotation submission against the selection criteria.

Council staff must:

- Not accept late tenders under any circumstance;
- Appoint an independent Council employee onto an evaluation panel for all Tenders over \$1 million, or that are considered high risk or high profile under this amount, to ensure the procedural integrity of the procurement process has been maintained;
- Appoint a Probity Auditor onto an evaluation panel for all Tenders over \$5 million, or that are considered high risk or high profile under this amount;

## **POST- TENDER NEGOTIATIONS**

Once a preferred tenderer, or shortlist of tenderers, has been selected through an evaluation panel negotiations may be conducted in order to better meet or achieve Councils' needs, providing negotiations remain within the intent and scope of the tender.

## **VARIATIONS**

Contract and scope variations must be approved in accordance with the Instrument of Delegations based on the revised lump sum contract value.

The total sum of contract variations worth 10% or more of the original lump sum contract value are to be assigned to the higher delegation level.

## **EXEMPTIONS, BREACHES AND NON-CONFORMANCE**

### **EXEMPTIONS FROM THE LOCAL GOVERNMENT ACT**

The Local Government Act sets out the occasions where Council is exempt from carrying out a public tender or expression of interest for contracts valued at or over \$150,000 (for goods or services) or \$200,000 (for works). Council officers must obtain the required exemptions and submit all approvals for inclusion in Council's Exemptions Register. Requirements for exemption for tender are limited by Section 186(1) of the Local Government Act and are outlined in Section 3.7 of the Victorian Local Government Best Practice Procurement Guidelines 2013.

### **BREACHES OF THE LOCAL GOVERNMENT ACT**

Council will disclose in its annual report and on its website where a document can be inspected by the public listing any contracts made by Council in breach of the Local Government Act within that financial year.

## **NON-CONFORMANCE WITH COUNCIL'S PROCUREMENT GUIDELINES**

Council staff are required to obtain internal approval for non-conformance to Council's Procurement Guidelines in advance of any quote or tender being approved. These non-conformances will be registered to enable continual review and ensure Council's policy and procedures remain fit for purpose.

## **DISPUTE RESOLUTION**

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes getting out of hand and leading to legal action.

## **REVIEW**

Any change or update which materially impacts and alters this policy must be by Council approval following review by the Corporate Management Team.

Under the Act Council must review and approve the Policy within twelve (12) months of adoption.

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