



Procurement Policy 2019/20

1. Introduction and Background

West Wimmera Shire Council recognises that a procurement strategy and appropriate best practice contract and procurement principles, policies, processes and procedures, will enhance achievement of Council objectives such as socially responsible procurement, value for money, achieving innovation and providing best value services to the community.

In November 2008, amendments to the *Local Government Act 1989* were passed which included a new section 186A that requires Council to 'prepare and approve a Procurement Policy'. A Procurement Policy must include any prescribed matter and Council must have regard to Ministerial Guidelines made under the section when preparing its policy. Council must review its procurement policy annually and make it available for public inspection.

2. Purpose and Objectives

The objectives of this Policy are to:

- establish a procurement framework for Council to achieve value for money and continuous improvement in the provision of services for the community;
- ensure that council resources are used efficiently and effectively to improve the overall quality of life of people in the local community;
- achieve compliance with relevant legislative requirements;
- achieve high standards of probity, transparency, accountability and risk management;
- give preference to the procurement of environmentally sustainable goods, services and works;
- give preference to the procurement of goods, services and works from within West Wimmera Shire Council and surrounding municipalities where price, quality, services standards and delivery is comparable to other suppliers.

2.1. Statement

This policy encompasses all elements of the procurement of goods and services and requires compliance from Councillors, Special Committee members, Staff, Contractors, Consultants and other members as required by the Chief Executive Officer.

2.2. Legislative Compliance Standards

This Procurement Policy is made under Section 186A of the *Local Government Act 1989*. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria. Section 186A of the Act requires the Council to prepare, approve and comply with a Procurement policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Council.

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

- Council's policies, procedures and guidelines
- Council's Code of Conduct
- Section 186 of the Act (Power to enter into Contracts)
- Section 186A of the Act (Procurement Policy)

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- Section 3C of the Act (Objectives of a Council)
- Sections 208C of the Act (Best Value Principles)
- Sections 77A, 77B, 78, 78A to 78E, 79 79B to D, 80, 80A to C and 95 of the Act (Conflict of Interest)
- Section 98 of the Act (Delegations)
- Section 140 of the Act (Accounts and Records)
- The relevant provisions of the Competition and Consumer Act 2010.

Council will adhere to all these provisions in all procurement matters consistent with the Victorian Local Government Best Practice Procurement Guidelines.

2.3. Section 186 – Restriction on power to enter into contracts

- 1) Before a Council enters into a contract for the purchase of goods or services, or for the carrying out of works, to the value of \$50 000 (or such higher amount as may be fixed by Order in Council) or more, it must—
 - a) give public notice of the purpose of the contract and invite tenders, from any person wishing to undertake the contract; or
 - b) give public notice of the purpose of the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project.
- 2) If a Council invites expressions of interest—
 - a) it must register those expressions of interest; and
 - b) when it is ready to enter into the contract, it must invite tenders from some or all of those who registered their interest in undertaking the contract (or the part of the project to which the contract relates).

2.4. Orders in Council (Victorian Government Gazette - 7 August 2008 – 1908 G32)

Local Government Act 1989
ORDER FIXING THE VALUE OF
CONTRACTS FOR WHICH A
PRIOR PUBLIC TENDER IS TO BE
CONDUCTED BY LOCAL COUNCILS

Order in Council

The Governor in Council under section 186(1) of the **Local Government Act 1989** sets the value of –

- a) \$150,000 for contracts for the purchase of goods and services; and
- b) \$200,000 for contracts for the carrying out of works,

for which a Council must, before entering into the contract, give public notice of the purpose of the contract and invite tenders from any person wishing to undertake the contract, or give public notice of the purpose of the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project.

This Order comes into operation on the day it is made.

Dated 5 August 2008

Responsible Minister

RICHARD WYNNE MP

Minister for Local Government

RYAN HEATH

Clerk of the Executive Council

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3. Owner

The owner of this policy is the Chief Executive Officer. Enquiries regarding this policy should be directed to Council’s Director Infrastructure Development & Works.

4. Treatment of GST

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

5. Definitions

Act: Local Government Act 1989.

Commercial in Confidence: Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc. It is information provided for a specific purpose that is not to be used for any other purpose than set out in the initial document.

Contract Management: The process that ensures both parties to a contract that fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.

Contract: An agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act/s that is enforceable in law. A contract may be verbal or written or inferred by conduct. A contract is to be distinguished from a ‘contract pursuant to section 186 of the Local Government Act’

Contract Documents: Documents construed together as an instrument of contract. They may include terms & conditions, specifications, drawings, tender responses, delivery schedules and payment schedules.

Conflict of Interest: In Victorian local government, the law provides that a staff member holding a delegation or advising council or a special committee has a conflict of interest which they must disclose in writing when they have a personal or private interest of the type specified in the legislation.

Contractor: Respondent (person, firm etc) whose tender/quotation offer has been accepted by the council with or without modification.

Council Staff: Includes full-time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.

Emergency:

- Any urgent circumstance which may present a risk to public health and/or safety
- The failure of a ‘key service provider’
- Significant damage to municipal building (where it is no longer safe)
- Major business disruptions such as an extensive IT failure resulting in a loss of services to the community.

Evaluation Criteria: The criteria used to evaluate the compliance and/or relative ranking of tender responses. All evaluation criteria must be clearly stated in the request documentation.

Probity: The dictionary definition of probity refers to uprightness, honesty, proper and ethical conduct and propriety in dealings. Within government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council’s policies and legislation are established, understood and followed from the

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outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.

Sustainability: Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.

Procurement: Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.

e-Procurement: e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system/s to acquire and pay for supplies, services` and works.

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.

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.

Late Tender: A late tender is one that it is not received in the Tender Box prior to the advertised closing date/time.

Local Content: Defined as labour, materials, plant and supervision which are sourced from within the Shire boundary.

Prepayment: A payment made for goods/services prior to any works being undertaken.

Public Tendering Thresholds: The values above which a procurement, unless exempt, is subject to the mandatory procurement procedures prescribed under Section 186 (1) of the Act.

Expression of Interest (EOI): A response to an open approach, usually by public advertisement, to the market requesting submissions from prospective suppliers interested in procurement. The list of potential suppliers who have provided expressions of interest may be used as the basis for conducting a select tender process.

Request for Proposal (RFP): A request for proposal is generally sent to the supplier market, designed to capture commercial information and pricing. Allows Council to assess suitability and evaluate responses against a set of pre-defined requirements.

Specifications: The statement which clearly and accurately describes the essential requirements for goods, services or works. It may also include the procedures by which it will be determined that the requirements have been met and performance required in a contract.

Standing Offer Agreement: A contract that sets out rates for goods and services that are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.

Sustainability Activities: that meet the needs of the present without compromising the ability of future generations to meet their needs.

Tender: An offer in writing to supply goods and/or services, usually submitted in response to a public or selective invitation such as a Request for Tender

Tender Opening Panel: Will consist of three Council officers, ideally one of which should be a Senior Manager.

Tender Process: The process of inviting parties to submit a quotation or tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.

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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:

Non-cost factors such as fitness for purpose, quality, service and support; and cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

Variance: Is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of work.

6. Policy Details

6.1. Effective Legislative and Policy Compliance and Control – Ethics and Probity

This Policy represents the principles, processes and procedures that will be applied to the purchase of all goods, service and works by Council. The scope of this Policy commences from when Council has identified a need for procurement requirements. It continues through to the delivery of goods or completion of works or services.

This Policy will apply to Councillors, Council staff and all persons undertaking procurement on Council’s behalf and they are accountable for complying with all relevant procurement legislative and policy requirements.

6.2. Conduct of Councillors and Council Staff

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

All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (Section 95 Local Government Act 1989).

In procurement matters:

- Treat potential and existing suppliers with equality and fairness;
- Maintain confidentiality of Commercial in Confidence matters and information such as contract prices and other sensitive information;
- Members of staff must disclose a direct or indirect interest (and the type of interest) before providing advice or reports (or any other matter) (Section 80C LGA)
- Council officers delegated Council powers or duties are prohibited from exercising those powers, duties or functions if they have conflicts of interest (Section 80B LGA).
- A Councillor must comply with the Primary Principle of Councillor Conduct and avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations. (Section 76BA LGA). Councillors (and members of audit committees) must disclose a conflict of interest (Section 79 LGA).
- Councillors must also comply with the Councillor Code of Conduct.
- Councillors must not improperly direct or improperly influence a member of council staff in the exercise of any power on/ in the performance of any duty or function. (Section 76E LGA)
- Members of staff must comply with the Code of Conduct for Council Staff (Section 95AA LGA)
- All staff engaged in the evaluation of quotation or tender evaluation must adhere to this Policy and complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality.
- All Councillors and Staff must adhere to councils Gifts and Hospitality Policy in matters of procurement.

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Councillors and staff members should make their interests known in any situation where it could be perceived that an interest might unduly influence them.

6.3. Tender Processes

All tender processes shall be conducted in accordance with the requirements of this policy and the Contract Management Manual, relevant legislation and relevant Australian Standards and the Act.

6.4. Conflict of Interest

Councillors and Council staff must avoid situations in which private interest’s conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff must not participate in any action or matter associated with the arrangement of procurement and a contract (i.e. evaluation, negotiation, recommendation, or approval), where that person or any member of their immediate family has a significant interest or holds a position of influence or power in a business undertaking tendering for the work.

Councillors and Council staff must:

- Avoid conflicts, 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 prevailing Council and Victorian Local Government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information for personal gain.

The onus is on the Councillor and the member of Council staff involved being alert to and promptly declaring an actual or potential conflict of interest to Council.

6.5. Fair and Honest Dealing

All prospective contractors and 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.

The commercial interests of existing and potential suppliers must be protected.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

6.6. Accountability and Transparency

Accountability in procurement means being able to explain and evidence what has happened. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Therefore, the processes by which all procurement activities are conducted will be in accordance with the Council’s procurement policies and procedures as set out in this policy and related Council policies and procedures.

Additionally:

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- The responsible Council staff must be able to account for all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- Where necessary, brief tenderers regarding the documented decision-making process, and
- All procurement activities are to leave an audit trail for monitoring and reporting purposes.

6.7. Gifts and Hospitality

No Councillor or member of Council staff shall, either directly or indirectly solicit or accept gifts or presents from any member of the public involved with any matter that is connected with the duties of the officer, or in which the Council is interested.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives, or from organisations, firms or individuals with whom they have official dealings. Councillors and Council staff should also make attempts to avoid the ambiguous situation created by visiting the premises of a contractor, organisation, firm or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the CEO or the Mayor.

6.8. Disclosure of Information

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

This may include information disclosed by organisations in tenders, quotation or during tender negotiations:

- Pre-contract information including but not limited to information provided in quotes, tenders or subsequently provided in pre-contract negotiations.
- Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.
- Discussion with potential suppliers during tender evaluations 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 with any tendering party or its representative or agent that could have potential contractual implications prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

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

7. Governance

7.1. Governance Structure

The council shall:

- Establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council.
- Ensure that Council’s procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council
- Ensure that prospective contractors and suppliers are afforded an appropriate opportunity to tender/quote;

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- Encourage competition; and
- Ensure that policies that impinge on the purchasing policies and practices are communicated and implemented.

7.2. Standards

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, procedures and guidelines.
- The Council’s Code of Conduct, (Includes Councillors Code of Conduct and Staff Code of Conduct).
- Local Government Best Practice Procurement Guidelines.
- Other relevant legislative requirements such as but not limited to the Trade Practices Act, Goods Act and the Environmental Protection Act the relevant provisions of the Competition and Consumer Act 2010 and the Environmental Protection Act. Procurement operations are consistent with prescribed rights and responsibilities and they respect the 20 fundamental rights within the Victorian Charter of Human Rights and Responsibilities Act 2006.

7.3. Methods of Purchasing

The Council’s standard methods for purchasing goods, services and works shall be by some or all of the following methods:

- Credit Cards – Corporate/Business
- Purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;
- Under contract following a tender process; or
- Where Council is satisfied that Value for Money requirements have been satisfied, under purchasing schemes including collaborative purchasing arrangements with other Councils and commercial schemes such as provided by Procurement Australia, the Municipal Association of Victoria and the State Government Purchasing Panel;
- Unless other arrangements authorised by Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies.

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

Typically a multi-stage tender process will commence with an expression stage followed by a tender process involving the organisations selected as a consequence of the expression of interest stage.

Council may also choose to seek Requests for Information or Requests for Proposals as a precursor to the tender process.

A Council Director, General Manager or Manager may determine to seek Expressions of interest (Section 186(1) of the Act) where:

- There is likely to be many tenderers and tendering will be costly or the procurement is complex; and Council does not wish to impose the costs of preparing full tenders on all tenderers
- There is uncertainty as to the willingness and/or interest of parties or vendors to offer the potential products or services or to undertake the proposed works
- The requirement is complex, difficult to define, unknown or unclear,

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- The requirement is capable of several technical solutions
- The requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

An Expression of Interest process can be undertaken where determined by the CEO, a General Manager or Manager and where Council advertises publicly

- The purpose and nature of the contract
- The date by which it will invite tenders.

Tenders and Expression of Interests should not be used to compensate for a lack of understanding as to a Council’s needs. If uncertain what is required; a simple Request for Information should be undertaken. A Request for Information may be undertaken for reasons which include establishing:

- The availability of technologies, products or service available in the market place to meet council needs
- Whether proposed terms and conditions or deliverable expectations are acceptable in the market place
- Whether proposed budgets are adequate to meet non-standard procurement needs – inadequate budgets should not become apparent when tenders are opened

A Request for Information should be used rather than a Request for Tender or Expression of Interest in order to improve understanding of needs, availability and likely costs.

A Request for Information will be undertaken similar to an Expression of Interest and advertised accordingly. Care must be taken when writing a specification for a Request for Information to ensure there is no commitment to purchase inadvertently included.

7.4. Responsible Financial Management

The principle of responsible financial management shall 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, shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

Council staff must not authorise the expenditure of funds in excess of their financial delegations. Council staff that breach their delegated authority may face action under Council’s Human Resource Policy and Guidelines Manual. (the decision to initiate disciplinary action or other action will be taken by the CEO based on a recommendation by therelevant Director).

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. Procurement Thresholds and Competition Requirements

Council procurement processes are based on the Value for Money Principle:

8.1. Value for Money

The benefits of the purchase are weighted against the costs necessary for the optimum result for the Council and local community. The Council is not required to accept the lowest tender. Instead, the Council is required to take into account issues of quality, cost, the accessibility of the service and other factors relevant to both the overall objectives of the Local Government Act.

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Value for Money is often mistaken for meaning the lowest price, however, in terms of the contracting process; value for money requires the balance of quality, and price and Council objectives with as much transparency as is reasonably achievable.

Achieving Value for Money also requires *challenging* the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, *comparing* service provision options against all those available, *consulting* with key stakeholders and ensuring *competition* in the open market.

Achieving Value for Money must be the basis of all procurement decisions within the Council.

8.2. Minimum Spend Competition Thresholds

Any Council procurement under the Local Government Act thresholds must comply with the Council’s own policy, guidelines and procedures.

The Council will from time to time decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be decided by the Council by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

Financial Thresholds (AUS\$ inc GST)	Requirements			
	Responsibility	Market Engagement	Agreement Type	Documentation
Up to \$1999	All departments	No quote required		Quotes must be Registered
\$2000 to \$8000	All departments	1 written or emailed Quote		
\$8,001 to \$25,000	All departments	2 written Quotes		
\$25,001 to \$80,000	All departments	3 written quotes	Contract	Evaluation Report
\$80,001 to \$150,000	All departments	3 written quotes		Evaluation Report
> \$150,000				Evaluation Report
> \$150,000	All departments	Public Tender	Contract	Evaluation Report
				Evaluation Report

A minimum of one of the three quotes **must be** obtained from a local supplier/provider wherever possible.



8.3. Threshold Margin

If a procurement budget is within 5% of the nearest threshold, then the greater threshold requirements must be adhered to. eg: Budget for item is \$79,000 (inc GST), then the requirement for 3 quotes is superseded by the requirement to Tender.

8.4. Payments

Payment for Works or Services will be made by the Principal on submission of Tax invoices by the Contractor in accordance with Council’s payment policies.

Payment of all claims shall be subject to approval by the Principal’s Authorised Officer that requested the works. All invoices shall be submitted in accordance with the Schedule of Rates forming part of the contract.

8.5. Prepayments

Prepayments for any goods/services cannot be made without the prior approval of the Director Corporate and Community Services, Director Infrastructure Development and Works or the Chief Executive Officer

8.6. Use of Agents

Council encourages (when available) the services of a third-party agent such as MAV Procurement or Procurement Australia to undertake the Tender process on behalf of Council where it can be shown that Value for Money would be achieved.

The Act allows for councils to form groups for the procurement of goods, services or works with one member of the group, acting as an agent for the other councils, undertaking a single competitive process. Each of the members of this group are able to enter into a contract with the preferred service provider identified through this competitive process. Council encourages group tenders with surrounding municipalities, particularly where it can be shown that best Value for Money would be attained.

When procurement is being planned, due diligence should be undertaken to evaluate if best Value for Money can be achieved by using an Agent or a collective group tender.

The Director Infrastructure Development and Works or the Director Corporate and Community Services is to be notified when a third-party agent is appointed.

8.7. Total Cumulative Spend

Care should be taken when reviewing the limits at 7.2 (above). In order to comply with the requirements of the Act where significant sums are spent in aggregate with one supplier or on one service, it is necessary to structure procurement proposals (as requests for tenders, quotations or prices) in order to achieve greatest value and supplier performance by leveraging this cumulative spend, rather than treating each discrete arrangement as a separate procurement exercise. Council has determined that the cumulative expenditure to a supplier or for a specific product/service for a period of up to two years is to be taken into account unless the exemption is approved by the Chief Executive Officer.

For example, if Council is spending \$70,000 on stationery items each year and Council determines that the optimum period for obtaining value for money is 2 years. The indicative value of the contract is \$140,000 and it is therefore subject to the legislative requirement to seek tender proposals through a public process.

Should the CEO consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the Council, public tenders may be called for purchase of goods, services and works for which the estimated expenditure is below the thresholds set under this Policy.

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In circumstances considered appropriate by the CEO, the thresholds under this policy for expenditure on goods and services or construction works relating to a specific project or contract, may be varied to align with values fixed under the *Local Government Act 1989* (i.e. \$150,000 for goods and services and \$200,000 for carrying out of works).

9. Determining the Procurement Process

9.1. Tenders

Purchase of all goods and services for which the estimated expenditure exceeds \$150,000 (inclusive of GST), and building and construction works for which the estimated expenditure exceeds \$200,000 (inclusive of GST), must be undertaken by public tender as per the thresholds contained in the Local Government Act.

West Wimmera Shire Council requires all expenditure over \$150,000 (inclusive of GST) to undergo the Public Tender process.

9.2. Expression of Interest

An expression of interest is a two-step process. When the thresholds are met an Expression of Interest process does not replace the need to call tenders. It simply precedes the calling of tenders and generally seeks to constrain the number of, and focus the quality and detail of, tenders received.

An Expression of Interest process is generally structured with the following components:

- Overview of requirements
- Invitation to submit
- Criteria for evaluating
- Form of (respondents form)

An expression of interest should be used in circumstances where –

- There is likely to be many tenderers, tendering will be costly or the procurement is complex
- There is uncertainty as to the interest of suppliers or vendors to offer the potential products or services or to undertake the proposed work

9.3. Quotations

Purchase of goods, services having a total \$150,000 (inclusive of GST) and works having a total valuation of \$200,000 (inclusive of GST) or less may be undertaken using the procurement by quotation method as described below:

9.3.1. Items of Value up to \$5,000

To achieve value for money for West Wimmera Shire Council the seeking of verbal and/or written quotations is encouraged. As a minimum one verbal quotation should be obtained.

9.3.2. Items with a value between \$2,000 to \$8,000 - Request for Quotation

A minimum of one emailed or written quotation must be obtained and the details recorded before placing an order (similar details must be recorded where more than one supplier has quoted) and documented in the Councils' record system.

9.3.3. Items with a value \$8,001 to \$25,000 - Request for Quotation

Council will receive a minimum of two written quotations or as directed by the relevant Department Manager.

The quotation offering the best value for money must be confirmed by the supplier on company letterhead and the order placed with that firm.

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Details of the suppliers contacted and their quotations must be recorded in the Councils' records system.

9.3.4. Items with a value– \$25,001 to \$80,000 - Request for Quotation

Council will receive a minimum of three written quotations or as directed by the relevant Director. Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best value for money outcome. The original supplier's quotation and all other quotations must be maintained in Councils' records system.

9.3.5. Items with a value \$80,001 to \$150,000 - Request for Quotation

Council will receive a minimum of three written quotations or as directed by the Chief Executive Officer. Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best value for money outcome.

The original suppliers quotation and all other quotations must be maintained in Councils' records system.

9.4. Public Advertising

Quotations may be advertised at the Council staff member's discretion in addition to the methods above. This may occur when a field of potential suppliers hasn't been established, or an innovative approach is required, or the project has broad appeal that may attract keen prices, etc.

9.5. Insufficient Quotations

The situation may arise where insufficient quotations are received to satisfy the above requirements.

This may occasionally occur where there are few suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the contacted suppliers must be recorded on the spreadsheet or recommendation and an appropriate comment recorded.

There may be occasions when only one quotation may be received. Such occasions would require approval of the Chief Executive Officer and would generally be considered under the following circumstances:

- In the event of emergency works for safety reasons.
- When there is only one known and reputable supplier.

10. Evaluation Criteria

The evaluation criteria for the Tender and Request for Quotation process is outlined in the Contract Management Manual.

11. Delegation of Authority

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 without prior referral to the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Procurement delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level.

As such, Council has delegated responsibilities as detailed below relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for contract management activities.

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Refer to *Appendix A* for a list of Delegations.

11.1. Delegations

11.1.1. Council Staff

The Council shall maintain a documented scheme of procurement 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 Appendix A and Contract Management Manual:

- Acceptance of tenders
- Acceptance of quotes
- Contract term extensions (within authorised budget)
- Contract amendment (non-financial)
- Contract amendment (financial)
- Appointment to register of pre-qualified suppliers
- Credit Card purchases
- Procedural exceptions

Where the CEO has a declared Conflict of Interest, the Tender, Expression of Interest or Request for Quotation Recommendation is to be presented to Council for final approval.

11.1.2. Delegations Reserved for the Council

Commitments and processes which exceed the CEO’s delegation and which must be approved by the Council are:

- Initial signing and sealing of contract documents.
- Tender recommendations and Contract approval for all expenditure over \$150,000 (inclusive of GST) for goods and services and Design and Construct works in value over \$200,000.
- Variations and Contract term extensions requiring additional budget of more than 10%.

11.1.3. Internal Controls

The Council will install and maintain a framework of internal controls over procurement processes that will ensure:

- More than one person is 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 authorizations are obtained and documented; and
- Systems are in place for appropriate monitoring and performance measurement.

Council will develop and maintain a procurement manual to provide guidance to staff on all operational aspects of procurement. The manual will include all checklists and forms required in Council’s procurement process.

11.1.4. Commercial Information

Procurement activities will be carried out in a way that supports Council staff in meeting their obligations - to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council guidelines.

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12. Tender / Contract Management

12.1. Risk Management

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

Council will manage all aspects of its procurement processes in accordance with its adopted risk management policy and in such a way that all risks, including occupational health and safety, are identified, analysed, evaluated, treated, monitored and communicated to the standard required by the law, in accordance with Australian Standards and council policy.

12.2. Health and Safety

To ensure the health and safety of our workers and visitors, procurement will be undertaken in accordance with requirements set out in the West Wimmera Shire Council's Health and Safety Management System and approved policies, and as required by the State and Commonwealth legislation.

12.3. Supply by Contract

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

The council will minimise its risk exposure by measures such as:

- Standardizing contracts to include current, relevant clauses;
- Requiring security deposits where appropriate;
- Referring specifications to relevant experts;
- Implementing a robust, systematic and unbiased tender evaluation and due diligence process;
- Requiring contractual agreement before allowing the commencement of work;
- Use of or reference to relevant Australian Standards (or equivalent); and
- Effectively managing the contract including monitoring and enforcing performance.

12.4. Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be obtained from the appropriate member of Council staff listed in the Council Delegations.

To protect the best interests of the Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose the Council to risk and thus must be authorised by the appropriate member of Council staff listed in the Council Delegations.

12.5. Endorsement

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to the CEO.

12.6. Dispute Resolution

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

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12.7. Contract Management

The purpose of contract management is to ensure that the Council, and where applicable its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

- establishing a system monitoring and meeting the responsibilities and obligations of both parties' under the contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions.
- adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

All Council contracts are to include contract management requirements. Furthermore, contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure the Council receives Value for Money.

12.8. Variances

During the course of a contract there may be valid reason(s) when the contract needs to be varied; this variance to the contract normally comes with a cost. All claims for variances must be in writing and approved by the officer with delegated authority as set out in Clause 10. Any variance greater than ten percent (10%) of the original contract price must be authorised by Council.

13. Demonstrate Sustained Value and Integration with Council Strategy

The Council procurement strategy shall support its corporate strategy, aims and objectives, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community such as:

- Feeling safe,
- Living in a clean and pleasant environment, and
- Receiving good quality and well managed council services that are value for money

13.1. Achieving Best Value

The Council's procurement activities will be carried out on the basis of obtaining Best Value.

This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinate of Best Value for Money.

13.2. Approach

This will be facilitated by:

- Developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle;
- Effective use of competition;
- Using aggregated/centralised contracts and Standing Offer Agreements where appropriate;
- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender processes including appropriate use of e-solutions;

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- Council staff responsible for providing procurement services or assistance within the Council providing competent advice in terms of available products and agreements; and
- Working with suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being acquired.

14. Role of Specifications

Specifications used in quotations, tenders and contracts are to support and contribute to the Council’s Value for Money objectives through being written in a manner that:

- Ensures impartiality and objectivity;
- Encourages the use of standard products;
- Encourages sustainability;
- Eliminates unnecessarily stringent requirements; and
- Wherever possible specifies technical standards and requirements that are within the capabilities of local and other suppliers.

15. Performance Measure and Continuous Improvement

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

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

The performance measurements developed will be used to:

- Highlight trend 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 improvement in procurement to eliminate waste and inefficiencies across key spend categories.

15.1. Sustainability

Council is committed to achieving sustainability and ensuring it monitors and reports on Council activities and programs that have an impact on or contribute to the environment including but not limited to:

- Waste management,
- Recycling,
- Energy management,
- Emission management,
- Water conservation,
- Green building design, and
- Procurement.

15.2. Sustainable Procurement

Sustainable procurement is the acquisition of necessary goods and services that have least impact on the environment and human health, within the purchaser’s capacity to do so.

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The West Wimmera Shire Council recognises it has an implicit role in furthering sustainable development, through its procurement of goods, and services and works.

In addition, the West Wimmera Shire Council recognises the potential impact this spend has on the environment and where applicable will integrate sustainability, environmental and social issues into the procurement process. The Council aims to achieve this by:

- Taking into account the need to minimise emissions and reducing the negative impacts of transportation when purchasing goods and services.
- Taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products and services procured.
- Considering the environmental performance of all suppliers and contractors, and encouraging them to conduct their operations in an environmentally sensitive manner.
- Considering the basic life cycle analysis of products to minimise the adverse effects on the environment resulting directly or indirectly from products.
- Selecting products / services that have minimal effect on the depletion of natural resources and biodiversity.
- Working more effectively with local suppliers to ensure they are encouraged to bid for the Council’s business in line with the Procurement Policy.
- Ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured.

15.3. Environmental Purchasing

Environmental purchasing is the inclusion of environmental factors in decisions on the purchase of products and/or services. It is sometimes called “green”, “sustainable” or “environmentally preferable” purchasing. The aim of considering environmental factors is to buy products or services that have less impact on the environment and human health than otherwise comparable products or services. Environmental purchasing can achieve a number of benefits:

- Reduce energy and water consumption (which can reduce costs)
- Improve resource use efficiency
- Reduce waste (which can reduce waste disposal costs)
- Reduce environmental health impacts of products and services
- Reduce pollution
- Provide markets for new environmentally preferable products
- “Close the loop” on recycling, improving the viability of recycling
- Provide leadership to the community
- Encourage industry to adopt cleaner technologies and produce products with lower environmental impacts

15.4. Corporate Social Responsibility

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. This means the Council maximising the benefits of the services they provide across the community and minimising the negative aspects of their activities.

The Council integrates CSR into its organisational policies and practices through social procurement, sustainability and diversity.

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15.5. 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. For Local Government, social procurement builds on initiatives already undertaken by the sector in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities. Social procurement is a key mechanism by which to generate wider social benefits by providing a mechanism for linking and integrating social and economic agendas.

West Wimmera Shire Council supports social procurement when engaging local suppliers, contractors and/or service providers and would seek Ministerial Exemption when the required works provide value for money to Council and would be advantageous to any of the following:

- Employment of disadvantage groups
- Employment of Apprentices
- Employment of recognised Youth Traineeships
- Employment of Youth labour
- Benefits to local community

16. Support of Local Business

Council is committed to buying from local businesses where such purchases may be justified on Best Value for Money grounds.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within the West Wimmera Shire Council. Council will also seek from prospective suppliers/contractors where applicable what economic contribution they will make to the West Wimmera Shire Council region.

Consideration of Total Value

Council will have regard to the following principles in its acquisition of goods and services.

- Encouragement of the support of competitive local/regional business and industry. Where the evaluation criteria are comparable, Council may consider the following:
 - the creation of local employment opportunities
 - increased availability of local servicing support
 - increased convenience with communications with the supplier for contract management
 - economic growth within the local area
 - benefit to Council of associated local commercial transactions; and or
 - the short and long term impact of the procurement on local business.

16.1. Purchases \$15,000 and above

Council will endeavour to obtain a minimum of one of the three quotes for purchases between \$15,000 and \$80,000 from a local supplier. In the event that this is not possible, the purchasing officer will advise the relevant Director so that supply gaps can be tracked and matched with future business opportunities.

A Local Supply weighting will be built into an evaluation criteria for all Tenders and Request for Quotation Evaluation Plans as outlined in the Contract Management Manual.

17. Diversity

Promoting equality through procurement can improve competition, Value for Money, the quality of public services, satisfaction among users, and community relations. It should be

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a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.

18. Apply a Consistent and Standard Approach

The Council will provide effective and efficient commercial arrangements for the acquisition of goods and services.

19. Standard Processes

The Council will provide effective commercial arrangements covering standard products and provision of standard services across the Council to enable employees to source requirements in an efficient manner.

This will be achieved via establishing the following:

- Pricing where relevant
- Processes, procedures and techniques

Tools and business systems (e.g. implementing appropriate e-tendering, e-evaluation; e-catalogue or e-sourcing arrangements).

- Reporting requirements
- Application of standard contract terms and conditions.

20. Performance Indicators

A list of performance indicators will be developed to measure procurement performance. They will include criteria such as:

- The proportion of spend against corporate contracts.
- User and supplier satisfaction levels.
- Knowledge and skill of Council staff in procurement process.
- Level of compliance and understanding of Council procurement policies.

Measuring the success of procurement initiatives eg. procurement cards.

21. Management Information

The Council seeks to improve its' performance by capturing and analyzing procurement management information in a variety of areas, including:

- Volume of spend
- Number of transactions per supplier
- Compliance
- Supplier performance
- User satisfaction
- Category management
- Green spend

The council will also use external sources of management information to assist with the procurement decision making process including:

- Benchmarking data
- Information from professional bodies such as the Chartered Institute of Purchasing and Supply Australia
- Supplier reports

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22. Build and Maintain Supply Relationships

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector aggregated projects or panels, access State Government panel agreements or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.

22.1. Developing and Managing Suppliers

Council recognise the importance of effective and open working relationships with its suppliers, and is committed to the following:

- Managing existing suppliers, via the appropriate development programs and performance measurements to ensure the benefits are delivered,
- Maintaining approved supplier lists,
- Developing new suppliers and improving the capability of existing suppliers where appropriate.

22.2. Supply Market Development

A wide range of suppliers should be 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:

- Local businesses
- Green suppliers
- Small to medium sized enterprises
- Social enterprises
- Ethnic and minority business
- Voluntary and community organisations.
- Local Content.

22.3. Relationship Management

Council is committed to developing constructive long-term relationships with suppliers. It is important that Council identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:

- Size of spend across Council;
- Criticality of goods / services supplier, to the delivery of Council's services;
- Availability of substitutes;
- Market share and strategic share of suppliers.

22.4. Communication

External communication is very important in ensuring a healthy interest from potential suppliers and partners to Council. The external website will provide:

- Information about Council and how to become an approved supplier,
- A list of existing and forthcoming contract opportunities, projected over a number of years,
- Guidelines for doing business with Council,
- Standard documentation used in the procurement process,
- Links to other relevant sites.

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22.5. Continual Improvement

Council is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

22.6. Compliance Responsibility

- Council staff
- Councillors
- Special Committees
- Contractors

22.7. Charter of Human Rights Compliance

Council will ensure that all of its procurement operations are fully consistent with the prescribed rights and responsibilities and that they respect the fundamental rights within the Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic).

23. Review Process

The Council endeavours to continually improve its procurement performance such that all relevant policies, guidance and training are continually reviewed and updated. The effectiveness of this approach will be measured and reported upon annually.

24. References and Related Policies

Acts	Local Government Act 1989
Regulations	
Codes of Practice	Victorian Government Procurement Board, July 2010 Victorian Audit-General, Report Tendering and Contracting in Local Government, tabled in Parliament, 24 February 2010.
Guidance notes	DPCD: Circular No. 06/2006, Local Government Procurement and Capacity to Appoint Agents. DPCD Local Government Best Practice Procurement Guidelines, 2013 Social Procurement: A Guide for Victorian Local Government
Australian Standards	
Related Policies	Councillor Code of Conduct

25. Supporting Documents

- West Wimmera Shire Council Delegations
- Contract Management Manual



26. Document History

Version Number	Issue Date	Author	Description of Change
0.1			First draft

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APPENDIX A
AUTHORISED PURCHASING LEVELS – 2019 – 2020

Council	up to and over \$100,000
Chief Executive Officer	up to \$100,000
Directors	up to \$80,000
Department Managers	up to \$50,000
Responsible Officers	up to \$10,000