



Procurement Policy

Adopted by Council: 19 August 2020

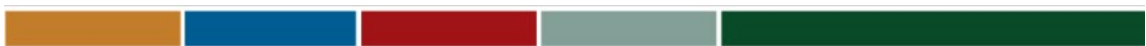




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1. BACKGROUND

The *Local Government Act 1989 and Local Government Act 2020* (Vic) (“the Act”) requires a Council:

- a) Publicly tender goods, services and works over certain thresholds (Section 108 of the 2020 Act); and
- b) Prepare, approve, publish and comply with a procurement policy, encompassing principles, processes and procedures applied to all purchases of goods, services and works by the Council (Section 108 of the Act). Council must review its Procurement Policy at least once during each four (4) year term of Council.

2. PURPOSE

The purpose of the Procurement Policy (“Policy”) is to:

- 2.1 Set a good governance and compliance direction for Council and Council employees in undertaking procurement;
- 2.2 Establish a procurement framework for Council to achieve value for money and continuous improvement in the provision of services for the community;
- 2.3 Ensure that council resources are used efficiently and effectively to improve the overall quality of life of people in the local community;
- 2.4 Achieve compliance with relevant legislative requirements;
- 2.5 Achieve high standards of probity, transparency, accountability and risk management;
- 2.6 Give preference to the procurement of environmentally sustainable goods, services and works;
- 2.7 Ensure all contractors and suppliers will be afforded an equal opportunity to tender or quote.
- 2.8 Give preference to the procurement of goods, services and works from within West Wimmera Shire Council and surrounding municipalities where price, quality, service standards and delivery is comparable to other suppliers.
- 2.9 Collaborate with other Councils and public bodies in the procurement of goods and services.

3. SCOPE

- 3.1 This policy provides the principles processes and procedures that will be applied to the purchase of all goods, services and works obtained and/or undertaking by Council.
- 3.2 This policy applies from when Council has identified a need for procurement of goods, services and works and it continues to the delivery of goods or completion of works or services.

4. APPLICATION OF THE POLICY

- 4.1 This Policy will apply to all Councillors, council employees and all persons engaged in procurement on Council’s behalf and they will be accountable for compliance with all relevant legislative requirements and requirements of this Policy.

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5. LEGISLATIVE COMPLIANCE STANDARDS

This Procurement Policy is made in accordance with the Local Government Act. The Act is the key legislative framework that regulates the process of all Local Government procurement in Victoria. 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.

Council will adhere to the provisions within the Act for all procurement matters consistent with the Victorian Local Government Best Practice Procurement Guidelines.

6. PROCUREMENT METHODOLOGY

6.1 The table below records a summary of the methodology for procurement at certain threshold levels and the delegation authority to sign the Contracts on Council's behalf as follows:

Procurement Threshold (AUS\$ inc of GST)	Procurement Methodology	Authority to Sign Contract/Agreement ***
\$0 to \$1,999	<ul style="list-style-type: none"> Request at least one (1) verbal or emailed quotation: and Raise a Purchase Order 	Under delegation of authority limits
\$2,000 to \$8,000	<ul style="list-style-type: none"> Request at least one (1) written or emailed quotation: and Raise a Purchase Order Quotes must be registered with the Procurement and Contracts Officer 	Under delegation of authority limits
\$8,001 to \$25,000	<ul style="list-style-type: none"> Request at least two (2) written quotations: and Raise a Purchase Order Quotes must be registered with the Procurement and Contracts Officer 	Under delegation of authority limits
\$25,001 to \$80,000	<ul style="list-style-type: none"> Request at least three (3) written quotations: and Raise a Purchase Order Evaluation Report Quotes must be registered with the Procurement and Contracts Officer 	Director
\$80,001 to \$149,999 (Goods & Services) \$80,001 to \$199,999 (Construction Works)	<ul style="list-style-type: none"> Request at least three (3) written quotations: Raise a Purchase Order A formal contract is required Evaluation Report Quotes must be registered with the Procurement and Contracts Officer 	Chief Executive Officer
\$150,000 plus (Goods & Services) \$200,000 plus (Constructions Works)	<ul style="list-style-type: none"> Undertake a public tender process through Council's e-Procure portal A formal contract is required Evaluation Report Quotes must be registered with the Procurement and Contracts Officer 	Chief Executive Officer



NOTE: *** For guidance refer to Council’s Delegations Register and Procurement Manual

6.2 Council’s standard methods of procurement incorporate:

- a) Procurement Credit Cards and Petty Cash (**see clauses 21 and 22**);
- b) Purchase Order following a Request for Quotation process (**see clause 7**);
- c) Contract following a public tender process (**see clauses 8 and 9**);
- d) Contract entered under the Ministerial Approved Arrangements or Agency Arrangement (**see clause 10**).

7. PROCUREMENT UNDER \$150,000 FOR GOODS OR SERVICES (UNDER \$200,000 FOR CONSTRUCTIONS WORKS)

7.1 For all procurements under this heading Council is required to follow a Request for Quotation (RFQ) process as follows:

- a) Procurements with a value up to **\$1,999** should be made after requesting at least one (1) verbal or emailed quotation and documented in the Councils record management system.
- b) Procurements with a value between **\$2,000 to \$8,000** should be made after requesting at least one (1) written or emailed quotation and documented in the Councils record management system.
- c) Procurements with a value between **\$8,001 to \$25,000** should be made after requesting at least two (2) written quotations and documented in the Councils record management system.
- d) Procurements with a value between **\$25,001 to \$80,000** for goods or services should be made after requesting at least three (3) written quotations and documented in the Councils record management system.
- e) Procurements with a value between **\$80,001 to \$149,000** for goods or services or to **\$199,999** for construction works, should be made after requesting at least three (3) written quotations and documented in the Councils record management system.

At the Chief Executive Officer or his/her delegate’s discretion a public tender process may be used for values less than \$150,000 (for goods or services) or \$200,000 (for construction works) if this process will serve Council’s best interests and provide a better outcome.

All values are inclusive of GST.

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8. PROCUREMENT EQUAL TO OR GREATER THAN \$150,000 FOR GOODS OR SERVICES (EQUAL TO OR GREATER THAN \$200,000 FOR CONSTRUCTIONS WORKS)

8.1 For all procurements equal to or greater than \$150,000 for goods or services (equal to or greater than \$200,000 for construction works) for the whole term of the contract must be:

a) Undertaken by public tender process in compliance with the Act and this Policy.

OR

b) A public tender process is not required if the contract is procured in the following circumstances:

- i. Procured where Council has resolved that the contract must be entered into because of an emergency;
- ii. Procured under the Ministerial approved arrangements in compliance with the Act as stated under clause 10 of this Policy;
- iii. Procured under an agency arrangement in compliance with the Act as stated under clause 10 of this Policy; or
- iv. The contract is a type of contract that has been exempted by regulation.

8.2 All procurements under this clause 8 must be processed through the procurement team or in consultation with the procurement team.

All values are inclusive of GST.

9. 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:

- a) Overview of requirements.
- b) Invitation to submit.
- c) Criteria for evaluating.
- d) Form offer (respondents form).

An expression of interest should be used in circumstances where:

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

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10. MINISTERIAL APPROVED ARRANGEMENTS AND AGENCY ARRANGEMENT

10.1 Ministerial Approved Arrangements

Council may procure goods, services or works without undertaking public tender process through:

- a) Municipal Association of Victoria Procurement (MAV Procurement);
- b) Procurement Australia;
- c) State Purchase Contracts (SPCs) and Whole of Victorian Government Contracts (WoVGs).
- d) Council employees must ensure that they follow a process, where applicable, required by the bodies outlined in Clause 10.

10.2 Agency Arrangement – Council as the Agent

Council may procure goods, services or works with a council acting as the agent for a group of Councils provided that the agent Council complies with the requirements of the Act.

11. PROCUREMENT PRINCIPLES

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

- a) Value for money;
- b) Open and fair competition;
- c) Accountability;
- d) Risk Management;
- e) Probity and transparency.

Council must also apply the Best Value principles which require, among other matters, that:

- a) All services provided by Council must meet the quality and costs standards; and
- b) Council must achieve continuous improvement in the provision of services for its community.

Council must implement principles of sound financial management.

Clause 11 is in accordance with sections 136(1) and 208B of the Act and the relevant provisions of the Competition and Consumer Act 2010 (Cth).

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12. SUPPORT OF LOCAL BUSINESS

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

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.

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:

- a) The creation of local employment opportunities;
- b) Increased availability of local servicing support;
- c) Increased convenience with communications with the supplier for contract management;
- d) Economic growth within the local area;
- e) Benefit to Council of associated local commercial transactions; and or
- f) The short and long term impact of the procurement on local business.

13. SUSTAINABLE PROCUREMENT CONSIDERATIONS

13.1 Council is committed to procure goods, services or works that will deliver value for money and will generate benefits for Council and its community whilst reducing damage to the environment and human health.

13.2 Council will promote and encourage in its procurement activities and decision making, the following environmental, economic and social sustainability considerations:

13.2.1 Environmental Sustainability

a) Minimise Waste:

- i. By avoiding or reducing the use of goods, materials, products or services that generate waste;
- ii. By re-using goods, products or materials, where possible, to extend their useful lifecycle;
- iii. By procuring goods, products or materials that are recycled or are recyclable.

b) Recycled or Recyclable Material:

Subject to the nature of the procurement, Council may apply up to a 10% price preference to those suppliers who demonstrate in their submissions or quotations that their goods, products or materials are either recycled or can be recycled.

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c) **Promote and encourage in Council procurement activities and decision making:**

- i. Reduction of greenhouse gas emission;
- ii. Maximisation of energy efficiency and improving energy management;
- iii. Reduction of water consumption and improving water management;
- iv. Minimisation of nature destruction and pollution.

13.2.2 **Economic Sustainability**

- a) Subject to the nature of the procurement, Council may procure goods, services or works:
- i. From Local suppliers in order to promote and encourage economic development in the community and foster the relationships with local business;
 - ii. From the suppliers who will demonstrate innovative or creative approaches to delivering goods, services or works;
 - iii. Which will consider the benefits and disadvantages of life-cycle costing of goods, services or works (i.e. purchase price, maintenance, operating and disposal costs).
- b) Whenever practicable, Council must give effective and substantial preferences to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand (section 186(6) of the Act).

13.2.3 **Social Sustainability**

Subject to the nature of the procurement, Council may procure goods, services or works which will:

- a) Generate local employment opportunities for the community;
- b) Promote and encourage social inclusion amongst local residents;
- c) Support and promote gender equality and safety;
- d) Support and promote safe and fair workplaces.

13.3 **Council's Discretion in Price Performance**

Subject to the nature of the procurement, Council may apply up to a 10% price preference to those suppliers who demonstrate in their submissions or quotations one or more factors under clause 12.2.2 Economic Sustainability and 12.2.3 Social Sustainability of this Policy.

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14. PROBITY REQUIREMENTS

- 14.1 Council employees and all person engaged in procurement on Council’s behalf must exercise the highest standards of integrity in a manner able to withstand the closet possible scrutiny.
- 14.2 Council employees and all persons engaged in procurement on Council’s behalf have an overriding responsibility to:
 - a) Comply with the legal and this policy requirements;
 - b) Ensure appropriately competitive process have been used in the procurement process;
 - c) Act impartially, fairly and with integrity;
 - d) Apply consistent and transparent process; and
 - e) Avoid conflict of interest and comply with confidentiality requirements.
- 14.3 In procurement matters, all Council employee (and all persons engaged in procurement on Council’s behalf):
 - a) Must complete and lodge a Conflict of Interest Declaration and a Confidentiality Agreement if engaged in the evaluation of quotations or tenders
 - b) Must disclose a direct or indirect interest and the type of interest before providing advice or reports or any other matter where it could be perceived that an interest might unduly influence them;
 - c) Who have been delegated Council powers, duties or functions are prohibited from exercising those powers, duties or functions if they have conflict of interest;
 - d) Must adhere to the requirements of this Policy and Officer of Code of Conduct; and
 - e) Must adhere to the requirements of Council’s gifts and hospitality procedure.
- 14.4 In procurement matters, all Councillors:
 - a) Must avoid conflicts between his or her public duties as a councillor and his or her personal interests and obligations;
 - b) Must disclose a conflict of interest in any situation where it could be perceived that an interest might unduly influence them;
 - c) Must not direct or influence a Council employee in the exercise of any power or in the performance of any duty or function of the employee; and
 - d) Must comply with the primary principle of Councillor Conduct.

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15. COUNCIL STAFF – BUSINESS AND PLANT

- a) Councillors and staff who own or have financial interest in a business may submit a tender for goods and/or services however, they must declare the conflict of interest to the Chief Executive Officer or as part of their tender/offer submission.
- b) Staff who own or have a financial interest in a business cannot directly procure goods and/or services from their own business on behalf of Council.
- c) Staff must declare their financial interest in a business to the Chief Executive Officer on commencement of employment or when they acquire the interest in the business.

16. GIFTS, BENEFITS 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 not accept gifts, benefits or hospitality from contractors or their representatives, or from organisations, firms or individuals with whom they have official dealings.

Councillors and Council staff should not visit the premises of a contractor, organisation, firm or individual uninvited unless on official business. All business negotiations in accordance with the Procurement Policy should be conducted on Council premises.

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 Chief Executive Officer.

17. RISK MANAGEMENT AND OCCUPATIONAL HEALTH AND SAFETY

- 17.1 Council is committed to manage all aspects of its procurement processes in line with its risk management policy and in such way that all risks, including occupational health and safety, are identified, analysed, evaluated, treated, monitored and communicated to the standards required by the law, Australian Standards and Council policies and procedures.
- 17.2 Council requires all contractors, service providers and volunteers to comply with all OH&S legislative requirements. These are mandatory requirements and non-compliance will disqualify prospective suppliers. Suppliers must, upon request by Council, provide evidence of certification or policy when providing goods, services or works.

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18. INTERNAL CONTROL

- 18.1 Council employees and all persons engaged in procurement on Council’s behalf must diligently follow framework of internal controls over procurement processes in order to ensure:
- a) More than one person is involved in, and responsible for, each procurement transaction;
 - b) Transparency in the procurement process;
 - c) A clearly documented audit trail exists for procurement functions;
 - d) Appropriate authorisations are obtained and documented;
 - e) Systems are in place for appropriate monitoring and performance measurement;
 - f) Maintain all records relevant to administering this Policy in accordance with the *Public Records Act 1973 (Vic)*; and
 - g) 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 employees are to protect, by refusing to release to discuss the following:
 - i. Information disclosed by organisations in tenders, quotation or during the tender negotiations;
 - ii. All information that is commercial in confidence; and
 - iii. Pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

19. PERFORMANCE MANAGEMENT AND REPORTING

- 19.1 In order to have continuous improvement in its processes and outcomes Council will evaluate, and at the direction of the Chief Executive Officer report, the following aspects of all procurement and contract management;
- a) Opportunities to improve the processes;
 - b) Incorporate process improvements to policies, procedures, manual and day-to-day practices; and
 - c) Evaluate contractor performance.

20. COLLABORATIVE PROCUREMENT

- 20.1 Where practical, Council will collaborate with other Council’s and public bodies in the procurement of goods or services to achieve Best Value of Money.

This will be achieved by:

- a) Participate in networking opportunities and special interest groups with the region.

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- b) Develop partnerships with small rural shires to facilitate regional training and professional development opportunities.
- c) As procurement opportunities arise, consult with local Council's and governing bodies to assess if there is an opportunity for joint procurement activities.

21. CORPORATE CREDIT AND PURCHASE CARDS

21.1 Credit and purchase cards must be used in accordance with Council's Credit and Purchase Card procedure.

22. PETTY CASH

22.1 Petty Cash will be used to purchase small incidental goods or services and/or urgent purchases and is limited to \$50.00 per transaction. A claim for petty cash reimbursement will be authorised by a delegated officer.

23. TENDER EVALUATION

23.1 Council employees and all persons engaged in procurement on Council's behalf must ensure that:

- a) Tender evaluations will be conducted in accordance with the methodology set out in Council's procurement manual and tender documents;
- b) A tender evaluation panel will be established to evaluate each tender submission against the selection criteria;
- c) A composition of the tender evaluation panel will be determined by a Director or his or her delegate Manager;
- d) A tender evaluation panel will produce a written report of their evaluation and present their recommendation/s to a Director; and
- e) The evaluation process is robust, systematic and unbiased.

23.2 At the discretion of the Chief Executive Officer or a Director:

- a) A tender evaluation panel may include external personnel in order to ensure value for money;
- b) A probity advisor may be appointed to any procurement process and/or tender evaluation panel in order to provide advice on probity related matters;
- c) A probity auditor may be appointed to review a procurement and/or evaluation process for continuous improvement; and
- d) An evaluation panel may be established for Request for Quotation process for complex, high risk or high value projects.

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24. DELEGATIONS AND AUTHORITY

- 24.1 Council will maintain a Delegations Register which specifies the level of delegated authority required for approval of a quotation, purchase order, tender, tax invoice and any other expenditure and contractual process for each instance of procurement.
- 24.2 A delegation for Council employees, except the Chief Executive Officer, may be amended from time to time at the sole discretion of the Chief Executive Officer or his or her delegate. The Chief Executive Officer’s delegated authority is set by Council.

Clause 24 is in accordance with section 98 of the Act.

25. EXECUTION OF CONTRACT OR AGREEMENT

- 25.1 The Chief Executive will execute any contract or agreement on behalf of Council provided that:
 - a) The contract or agreement is within the Chief Executive Officer’s financial delegation; or
 - b) Council by its resolution has awarded the contract or agreement which is outside the Chief Executive Officer’s financial delegation.
- 25.2 The Chief Executive Officer may delegate the execution of any contract or agreement to a Director.
- 25.3 Notwithstanding clause 22.1, Council may resolve to delegate execution of a contract or agreement to the Mayor or Council’s delegate.

26. CONTRACT MANAGEMENT

- 26.1 Council will maintain a Contracts Register where it will record contracts that Council has entered into for a procurement of goods, services or works.
- 26.2 The purpose of contract management is to ensure that Council, and where applicable its customers, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract.
- 26.3 The provision of goods, services and works by contract potentially exposes Council to risk. Council will minimise its risk exposure by measures such as:
 - a) Standardising contracts to include current, relevant clauses;
 - b) Requiring a contractor to provide evidence of a labour hire licence under the *Labour Hire Licensing Act 2018 (Vic)*;
 - c) Ensuring the contract or purchase order reflects tender pricing;
 - d) Requiring security deposits where appropriate;
 - e) Requiring evidence of relevant insurance cover;
 - f) Referring specifications to relevant experts where appropriate;

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- g) Requiring a correctly executed contractual agreement before commencement;
- h) Use of or reference to relevant Australian Standards (or equivalent); and
- i) Effectively managing the contract including monitoring and enforcing performance;
- j) Adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

27. VARIANCES

During the course of a contract there may be valid reason(s) when a major 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 the delegated authority. All variation orders must be recorded on a Variation Register. Any cumulative variance for a major contract greater than ten percent (10%) of the original contract price must be authorised by Council.

If there is more than a ten percent 10% difference between a regular tax invoice and a purchase order which is not a contract it will be redirected to the delegated officer for authorisation.

28. TRAINING AND SKILL DEVELOPMENT

28.1 In order to have continuous improvement Council will provide:

- a) Training for the procurement staff and ongoing opportunities to update their skills and knowledge;
- b) Strategic and governance training for the management team about their roles and responsibilities in leading and supporting Council's procurement and governance processes and practices; and
- c) Induction training for new employees which will provide core guidance on Council's procurement policy and procedures.

29. PROCUREMENT MANUAL

29.1 Council will develop and maintain a procurement manual which will detail the procedure and processes and provide guidance to Council on all operational aspects of procurement.

29.2 The procurement manual will support Council in the implementation of the legislative requirements and the requirements of this Policy.

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30. REFERENCES AND RELATED POLICIES

Acts	Local Government Act 1989 and Local Government Act 2020
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

31. SUPPORTING DOCUMENTS

West Wimmera Shire Council Delegations – Appendix A

Procurement Policy Definitions and Abbreviations

West Wimmera Shire Council Procurement Manual

32. DOCUMENT HISTORY

Version Number	Issue Date	Author	Description of Change
0.1			First draft

Policy Adopted:	Council Meeting 19/08/20	Minute Book	RecFind E20/000284
Policy Reviewed:			



APPENDIX A

AUTHORISED DELEGATION LEVELS

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