

 <p>City of Mount Gambier</p>	<h2>PROCUREMENT POLICY</h2>	Version No:	1.0
		Issued:	12 December 2023
		Next Review:	December 2027

1. INTRODUCTION

Council is committed to implementing fair, transparent and competitive purchasing and contracting practices achieving optimum value for money outcomes aligned to the Council's strategic objectives, community expectations and the requirements of any special funding sources.

A procurement administrative framework is maintained to support the application of this policy.

2. PURPOSE

In compliance with Section 49 of the *Local Government Act 1999* (Act) and best practice principles in procurement, this Policy seeks to:

- define the methods by which Council can acquire goods and services;
- demonstrate probity, accountability, and responsibility of Council to all stakeholders;
- be fair and equitable to all parties involved;
- enable consistency of approach in the application of procurement processes; and
- ensure that the best possible outcome is achieved for Council.

3. SCOPE

This Policy applies to all procurement activities undertaken in the acquisition of goods or services on behalf of Council, whilst giving due regard to financial thresholds outlined in *Procurement Thresholds - Clause 10* below, whether solicited by Council, or the result of an unsolicited proposal from the private or not-for-profit sectors, and whether transacted via a trading account or Council expense card.

The procurement of goods and services must:

- only relate to business of the Council and must not be of a personal nature; and
- be approved in accordance with Council's delegations and any relevant Council policies.

This Policy does not cover:

- non-procurement expenditures such as sponsorships, grants, funding arrangements, donations, and employment agreements;
- real property acquisitions of land, buildings, or structures;
- the disposal of land and other assets;
- the acquisition/borrowing of art pieces and curating of exhibitions (these will be conducted under the Art Curatorial and Preservation Policy once adopted, however until that time the requirements of this policy will apply); or
- procurement processes during the Council Caretaker period (these will be conducted under the requirements of the Council Election Caretaker Policy, however where the policy is silent, the requirements of this Procurement Policy will prevail).

However, Council's normal budgetary process will consider these and determine authorisation as part of this process.

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4. DEFINITIONS

In this Policy, unless the contrary intention appears, these words have the following meanings:

Key Term – Acronym	Definition
Acquisition Plan	a document that outlines the procurement methodology and sourcing strategy to be undertaken in a proposed procurement.
Agreement	An agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act that is enforceable in law. An agreement may be verbal, written or inferred by conduct.
Contractor	Is an individual or organisation that is formally engaged to provide goods or services for or on behalf of an entity. This definition does not apply to casual, fixed-term or temporary employees directly employed by the entity.
Cumulative Spend	The total amount of money spent on goods and services from the same supplier over a period of time.
Delegated Authority	Powers or duties delegated from Council to a Council Officer.
Direct Purchase	Procurement process undertaken by directly approaching and negotiating with one supplier or contractor without testing the market. This method is generally only appropriate for low value and low risk goods and services.
Emergency Situation	A situation where Council is required to remedy or make good damage incurred to Council property from a natural or man-made incident. The Chief Executive Officer has the authority to act in an Emergency Situation: goods and services in these instances may be purchased from a supplier or contractor without reference to the financial limitations provided in this Policy.
Expression of interest (EOI)	Used to identify suppliers and contractors interested in, and capable of, delivering the required goods or services. Potential suppliers and contractors are asked to provide information on their capability and capacity to do the work. It is usually the first stage of a multi-stage procurement process.
Evaluation Criteria	The criteria used to evaluate the compliance of suppliers' offers. The evaluation criteria, either mandatory, weighted or non-weighted, provide a standard against which Council will evaluate the quantitative (financial) and qualitative (non-financial) elements of suppliers' offers to identify the best fit-for-purpose, value for money solution.
Exemption from Competitive Process	The deviation from policy to pursue a method of procurement that will provide the best outcome for the Council.

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Key Term – Acronym	Definition
Goods	A physical or tangible item that does not include a labour component
Lifecycle cost	The total cost of an item or system over its full life. It includes the cost of development, production, ownership (operation, maintenance, support), and disposal, if applicable. Also referred to as whole of life cycle cost or total cost of ownership.
Local Supplier	A supplier or contractor which is beneficially owned by persons who are residents or ratepayers of the Council, or has its principal business within the Council area, or a business that substantially employs persons who are residents or ratepayers.
Market Approach	The process undertaken to inform the market of your requirements to obtain offers to meet your requirements.
Prequalified Contractor	Contractors who have provided details which have been formally assessed against pre-defined criteria. These criteria usually include capability/experience, Work Health and Safety (WHS), quality and environmental certification, financial sustainability, work methods, insurances and licences.
Probity	Uprightness, honesty, proper and ethical conduct and propriety in dealings. It is often also used in government in a general sense to mean good process.
Procurement	A series of activities that are undertaken when purchasing goods and services, based on three key phases,: planning, purchasing and contract management
Procurement process	The step-by-step process for the planning, establishment and contract management of small and large acquisitions.
Purchasing	The process by which an organisation contracts with another party to obtain the goods and services required to fulfil its business objectives.
Quotation/quote	An offer to supply goods and/or services, usually in response to an invitation to supply known as a request for quotation. Often used interchangeably with proposal, tender, bid and offer.
Services	An intangible supply or effort. Also referred to as “works”.
Value for Money	The optimal combination of financial and non-financial factors through the lifecycle of the goods and services procured.

5. ROLES AND RESPONSIBILITIES

Council:

Council is responsible for approving an appropriate Procurement policy.

Chief Executive Officer:

The Chief Executive Officer ensures that:

- there are appropriate resources to fulfil the effective outcomes of this policy; and
- that they comply with this policy; and

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- they review the processes and value of this policy.

General Managers:

The General Managers ensure that:

- there are appropriate resources to fulfil the effective outcomes of this policy; and
- they comply with this policy.

Council Staff:

Council staff with financial delegated authority to procure will be responsible for ensuring appropriate procurement practices and procedures, including the identification of risk are observed.

6. POLICY STATEMENTS

- 6.1 In compliance with Section 49 of the Local Government Act 1999 (Act), Council should refer to this policy (Policy) when acquiring goods or services.
- 6.2 Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
- the contracting out of services;
 - competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and
 - the use of local goods and services.
- 6.3 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
- obtaining value in the expenditure of public money;
 - providing for ethical and fair treatment of participants; and
 - ensuring probity, accountability and transparency in all operations.

7. PROCUREMENT OBJECTIVES

Council is committed to achieving a range of objectives through its procurement processes that may be considered alongside achieving value for money outcomes. Such objectives should be supported by appropriate evaluation criteria and weightings and decisions of Council.

Procurement activities undertaken by Council can include the following objectives:

7.1 Open and Fair Competition

Open and fair competition will be fostered and maintained by providing suppliers and contractors with appropriate access to Council's procurement opportunities. Council will ensure, where reasonably practicable, that:

- there is reasonable access for all suitable and competitive suppliers and contractors to the Council's business;
- where market circumstances limit competition, procurement activities recognise this, and associated methodology takes account of it; and
- adequate, identical and timely information is provided to all suppliers and contractors to enable them to quote or tender.

7.2 Value for Money

Value for money outcomes can be achieved through balanced consideration of financial and non-financial factors relevant to the procurement.

The following factors should be considered:

- the contribution to Council's long-term plan and strategic direction;

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- any relevant direct and indirect benefits to Council, both tangible and intangible;
- efficiency and effectiveness of the proposed procurement activity;
- the performance history, quality and scope of services, and support of each prospective supplier and contractor;
- fit for purpose of the proposed goods or service;
- whole of life costs including acquiring, using, maintaining and disposal;
- Council's internal administration costs;
- technical compliance issues and costs;
- risk exposure and WHS considerations;
- prevailing market forces and trends;
- the value of any associated environmental benefits;
- local economic development and social inclusion;
- trade-in values; and
- other relevant matters identified in specific procurement process documentation.

7.3 Probity, Accountability and Transparency

All procurement shall be undertaken in a manner that ensures:

- clearly established roles and responsibilities;
- appropriate record keeping and documentation;
- integrity through transparency of process and documentation of decisions made;
- adherence to relevant legislation, policy and procedure;
- identification and management of actual or potential conflicts of interest; and
- confidentiality of all commercial information.

7.4 Ethical Behaviour and Fair Dealing

All staff involved in procurement activities are to:

- behave with impartiality, fairness, openness, integrity, and professionalism
- provide all suppliers and contractors with equal opportunity to supply to Council;
- establish clear and easy to understand documentation requirements, evaluation criteria and methodology;
- provide consistent processes and constructive feedback on decisions upon request from suppliers and contractors; and
- ensure effective communication and provision of information to all suppliers and contractors.

7.5 Risk Management

The risk assessment process should consider financial, supply, business, legal, management, reputations, probity, work health and safety, environmental, public safety, political and sensitive risks.

Risks relating to the procurement process may include:

- procurement of unsuitable product or service;
- funding (e.g. internal & external, impact on long term financial plan);
- probity failure;
- inappropriate or inadequate specification;
- negotiation of agreement terms/failure to agree to terms;
- actual or perceived breach of probity/confidentiality;
- lack of responses/limited supplier participation; and
- evaluation processes.

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Risks relating to the engagement of the product/service provider may include:

- supplier capability/capacity/availability;
- agreement management/supervision;
- price variations;
- agreement disputes; and
- unauthorised change in scope of work.

Council personnel will ensure that appropriate practices and procedures of internal control and risk management are in place for its procurement activities, including risk identification, assessment, and implementation of controls.

Procurement risk assessments will focus on assessing a potential supplier's and contractor's capacity and capability to meet Council's requirements and identify any other factors which might result in goods or services not being successfully delivered.

Council's approach to market will be influenced by procurement risk assessments, with high-risk and high-value acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

7.6 Work Health and Safety

Council is committed to protecting health, safety, and welfare. Council personnel will ensure that its procurement activities protect the health, safety and welfare of its workers, elected members, customers, and community.

If the procurement of services, goods, materials or plant and equipment involves implications for work, health or safety, Council's Work Health & Safety & Risk Management Team should also be consulted prior to such procurement.

Where appropriate, procurement evaluation must ensure an appropriately skilled person confirms all WHS requirements.

7.7 Environmental Sustainability

Council promotes environmental sustainability through its procurement activities and will consider the purchase of environmentally sustainable goods and services that satisfy the value for money criteria when all other financial and commercial considerations are equal. This can be by:

- purchasing recycled and environmentally preferred products where possible;
- adopting purchasing practices which conserve natural resources;
- aligning the Council's procurement activities with principles of ecological sustainability;
- selecting products and services which have lower environmental impacts across their life cycle compared with competing products and services;
- integrating relevant principles of waste minimisation and conservation of energy.
- providing leadership to business, industry, and the community in promoting the use of environmentally sensitive goods and services; and
- fostering the development of products and services which have a low environmental impact.

7.8 Local Economic Benefit and Social Inclusion

Council recognises the significant impact that its operations play in the local economy yet is mindful of its requirement to provide optimum value for money outcomes through its procurement activities and achieve budget expectations.

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Council will endeavour to, at its discretion and to the full extent permitted by law, support local businesses by:

- promoting to local and regional businesses opportunities to supply to the Council;
- giving preference to local business when all other commercial considerations are equal;
- encouraging Aboriginal and Torres Strait suppliers and contractors to quote and tender.
- giving preference to Aboriginal and Torres Strait, local and regional businesses when all other commercial conditions are equal to ensure local employment opportunities and economic stability and/or growth; and
- considering economic and social inclusion elements such as employment creation and training opportunities specifically within the Council area.

7.9 Social Impact

Where possible, Council will pursue procurement activities which generate social value through direct or indirect approaches, including but not limited to:

- indigenous suppliers and contractors;
- people with a disability;
- women in business; and
- small to medium business.

7.10 Effective Management of the End to End Procurement Lifecycle

The procurement lifecycle includes all of the steps and tasks within the procurement process, from needs identification and data gathering to contract management, delivery of goods or services and relationships with suppliers and contractors.

Council personnel will determine appropriate methodology within the various steps of the procurement lifecycle including planning, risk management, tendering, purchasing, contracting and financial control with regard to the scale, complexity and importance of the goods or services being acquired.

8. **PROCUREMENT THRESHOLDS**

Procurements are to be in accordance with Council's financial thresholds outlined below:

Value of Procurement (\$)	Procurement Method	Policy Clause	Minimum No. of Quotes	Approver
Up to \$2,000	Direct Purchase	10.1	0	As per Financial Delegation
\$2,001 to \$10,000	Direct Purchase ¹	10.1	1	
\$10,001 to \$50,000	Request for Quotation (RFQ) ¹	10.2	2	
\$50,001 to \$100,000	Request for Quotation (RFQ) ²	10.2	3	
\$100,001 to \$500,000	Request for Tender (RFT) ^{2 3}	10.5	3	
Over \$500,000	Request for Tender (RFT) ^{2 3}	10.5	3	Council Resolution

¹ Evidence of cost estimate/s or written quotation/s to be recorded in Council's records management system. Where a schedule of rates has been submitted by a supplier under a panel arrangement, this may be used as evidence of quotation and referenced as required.

² Competitive process to be undertaken in consultation with procurement staff

³ Prior to undertaking a formal tender process Council may invite Expressions of Interest (refer clause 10.3)

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Procurement Method	Decision Making Delegations
Direct Purchasing (Formal Supply Contracts)	<ul style="list-style-type: none"> • Authorised Officer – up to \$ limit • Chief Executive Officer – up to budget
Panel Contracts	<ul style="list-style-type: none"> • Authorised Officer – up to \$ limit • Chief Executive Officer – up to budget
Strategic Alliances	<ul style="list-style-type: none"> • Authorised Officer – up to \$ limit • Chief Executive Officer – up to budget

The value of the procurement is calculated as follows:

- **Single one-off procurement** (e.g. purchase of a mower) – the total amount, or estimated amount, of the procurement (excluding GST);
- **Multiple procurements with the same supplier or contractor** (e.g. purchase of two new mowers at the same time) – the combined gross value, or the estimated gross value, of the procurements (excluding GST); or
- **Ongoing procurements over time** – the total is calculated across all elements of the procurement process including any agreement options, extensions, renewals and contingencies (excluding GST) and should be considered in the planning phase of the project (e.g. the provision of a building maintenance service that costs \$25,000 per year on a two year contract that has an option to extend for a further two years, would have a procurement value of \$100,000).

Splitting the value of the purchase into individual components to meet with lower value of Purchase Thresholds is **not** permitted.

9. CUMULATIVE SPEND

Cumulative spend is identified as the estimated value of the total proposed purchase(s), including any agreement options, extensions and renewals (exclusive of GST), and potential cumulative value of the goods or services supplied over a period of time ie twelve (12) months against a supplier and contractor.


Cumulative Spend shall be monitored annually by Council to determine whether the appropriate procurement process has been undertaken and/or an alternative procurement method is required to be undertaken to comply with this policy.

10. PROCUREMENT METHODS

The method of procurement will be documented in an Acquisition Plan (in accordance with the requirements of clause 8 Procurement Thresholds), with reference to a number of factors including procurement complexity, value, risks, characteristics of the supply market and Council's strategic objectives.

10.1 Direct Purchasing

- Direct purchasing is a procurement method undertaken by directly approaching and negotiating with one (1) supplier or contractor.
- Procurement method may be conducted where transactions are of low value and low risk.
- Prices should be tested for currency prior to awarding supplier or contractor to give consideration to Value for Money.
- Payment options available to the Council for direct purchasing include corporate cards, employee purchase reimbursement and store credit (purchase order) payment via Electronic Funds Transfer (EFT).

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10.2 Request for Quotations (RFQ)

- This is where Council obtains quotations from prospective suppliers or contractors for the provision of low value, low risk goods and services.
- This method may be suitable for simple, largely price-based purchases.

10.3 Expressions of Interest (EOI)

- Expressions of Interest are useful when the number of suppliers or contractors, market size or the approach to solving a problem is largely unknown.
- Such a process can form the platform for a future Request for Tender for the goods and/or services required.
- Council should attempt to assess the market before conducting an EOI process and refine its requirements as much as possible to ensure responses are targeted appropriately.

10.4 Request for Proposal (RFP)

Request for Proposals are useful when Council has identified a need for goods or services and wishes to invite qualified suppliers or contractors to propose solutions to meet the need.

10.5 Request for Tender (RFT)

- This is where the Council issues a tender for the goods or services required.
- Council may issue a “Select” Request for Tender where it has already issued an EOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers or contractors.
- Otherwise, Council may issue an “Open” Request for Tender.

10.6 Panel Contracts

Council may establish its own panel arrangements with a select group of suppliers or contractors to increase efficient procurement of goods and services.

- Panels must be established following the principles of this Policy.
- Any panels must operate under an Agreement and managed for performance and on-going value for money opportunities.

10.7 Strategic Alliances

If the Council enters into a strategic alliances procurement process under this Policy then there will be no requirement for the Council to approach the wider market or enter into a separate RFT/RFQ as an open tender process has already been undertaken. Council can meet its procurement requirements through contractual arrangements established and administered by other organisations that demonstrate adherence to the requirements of this policy. The use by the Council of strategic alliances means that the methods of procurement set out in this policy will be undertaken pursuant to and in accordance with the arrangements set out under the strategic alliance.

These include, but is not limited to:

- LGA Procurement (via VendorPanel);
- a purchasing group of which the Council is a member;
- some State Government contracts; and
- ad hoc alliances created with other Local Government entities.

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11. EXEMPTIONS FROM THIS POLICY

11.1 Exemptions where Documented Approval of Exemption is Required

There may be emergencies, or procurements in which a particular process will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate.

The authority to provide an exemption from using the required method of procurement will be delegated to the Chief Executive Officer or the relevant General Manager in accordance with expenditure sub-delegations as prescribed in Council's Delegations Register.

A request for waiver of a competitive process should not be viewed as a mechanism to remove the need for rigorous procurement planning and an appropriately completed exemption request form must detail the reasons why the exemption is necessary and the planning/investigation which has been undertaken. In approving an exemption, the approver will consider the scale, scope and relative risk of the purchase, including the principles defined in this Policy.

Situations where it may be appropriate to waive application of this policy are:

- a) there may be significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property;
- b) there may be a significant risk to Council's operations;
- c) the pressures of time are such that an open tender call is not feasible, such as where there has been an unanticipated Council or Government policy decision;
- d) Council purchases assets or goods at an auction up to \$100,000;
- e) Council purchases second hand assets or goods up to \$100,000;
- f) a supplier or contractor is evidenced to be a "sole supplier or contractor" in the market and effectively a niche specialist or monopoly, rendering the tender process redundant;
- g) a supplier or contractor who has considerable background knowledge and experience, or specialist expertise on that particular Council project or asset e.g. an extension of a previous project. In such circumstances, the procurement of assets, goods, or services on negotiated fees and terms through that supplier or contractor alone may be deemed sound and advantageous to the project. This could include engaging the supplier or contractor on a retainer basis for a specialised period of time;
- h) continuation of services under an existing purchasing arrangement (i.e. variations/ extensions to existing purchase orders or agreements);
- i) goods or services are being provided under an existing purchasing arrangement (i.e. warranty, servicing, maintenance or defects liability);
- j) where knowledge, design and/or intellectual property is being retained to secure continuity of a staged initiative which may be disadvantaged (e.g. time, objective, financially) if subjected to a further competitive engagement process; or
- k) Council has entered into a Strategic Alliance procurement process in accordance with clause 10.7 of this policy.

11.2 Exemptions where Documented Approval is Not Required

Goods and services which are deemed integral to the day to day running of Council (for example utilities and government statutory charges) are not subject to the requirements of this policy. A list of these goods and services can be found in the Procure to Pay Administrative Framework.

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Although market engagement is not required, Council Officers must exercise due diligence to ensure value for money for Council.

12. DELEGATIONS

- Expenditure sub-delegations, detailing authorised purchases, purchasing limits and the ability to enter an agreement are prescribed in Council's Delegations Register.
- This Policy also applies to any Committee of Council, or other delegated bodies with specific delegated authority to procure good under its Terms of Reference. Where there is a conflict between the Terms of Reference and this Policy for the procurement of goods or services, this Policy will prevail.

13. RECORDS

The Council must maintain records of procurement activities in accordance with the State Records Act 1997 and Council's records management policies and procedures. At a minimum, documentation which details the procurement method, risk, evaluation plan and evaluation result, must be prepared and maintained for each relevant procurement. The preferred method of capturing procurement activity records is through use of established templates available to Council officers.

14. PRUDENTIAL REQUIREMENTS

This policy is to be administered with regard to and consistent with Council's Prudential Management Policy, practices and procedures and s48 of the Local Government Act 1999.

15. TRAINING/EDUCATION

Training will be provided to key members of staff, the Executive Leadership Team and Elected Members as required.

16. REVIEW OF POLICY

This Policy will be reviewed:

- every four years; or
- the frequency dictated in legislation; or
- earlier in the event of changes to legislation or related policies and procedures; or
- if deemed necessary by the General Manager Corporate and Regulatory Services.

17. FURTHER INFORMATION

This Policy will be published on the Council's website and will be available for inspection at the principal office of the Council.

A copy of this Policy will be provided to any person upon request following payment of a fee as prescribed in Council's Schedule of Fees and Charges.

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File Reference:	AF18/48
Applicable Legislation:	Local Government Act 1999 (s49)
Reference: Strategic Plan 2020-2024	Goal 3 – Our Diverse Economy
Related Policies:	B300 Budget Framework F225 Fraud, Corruption, Misconduct and Maladministration Prevention Policy R305 Risk Management R180 Records Management P415 Prudential Management Disposal of Land and Assets Policy Behavioural Management Policy
Related Administrative Procedures:	Procure to Pay Administrative Framework Procure to Pay Administrative Procedures Petty Cash Administrative Procedure Corporate Card Administrative Procedure Corporate Expenditure Administrative Procedure (Draft)
Related Documents:	Procurement Templates (AF17/47) Code of Conduct – Employee

18. DOCUMENT DETAILS

Responsibility:	General Manager Corporate and Regulatory Services
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