



# Yarra Ranges Procurement Policy

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Policy Number	C-GG-006-P
Approved by Council:	5 May 2020
Responsible Officer:	Executive Officer – Procurement Services
Department:	Financial Services
Date of Next Review	Prior to 30 June 2021

## **1 POLICY OBJECTIVES**

The objectives of this Policy are to:

- establish a policy framework to achieve best value in the provision of goods, works and services for the community;
- to ensure consistency, control and best practice over procurement activities;
- ensure Council resources are used efficiently and effectively;
- provide guidance and achieve high standards of probity, transparency, accountability and risk management; and
- enhance Council's ability to obtain the best outcome from purchasing activities using a range of considerations, including but not limited to environmental, financial, social sustainability and support for the local economy.

## **2 SCOPE**

This policy represents the principles, processes and procedures that will be applied to the purchase of all goods, services and works by Council. The scope of this policy commences when Council has identified a need to procure goods, works or services, and 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 all are accountable for complying with all relevant procurement legislative and policy requirements

## **3 POLICY STATEMENT**

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

- value for money;
- open and fair competition;
- accountability;
- risk management; and
- probity and transparency.

Council is also committed to reducing its environmental impacts, while generating benefits to the broader community and economy. Council will do this by:

- encouraging the design and use of products and services that have been produced to ethical standards, which have minimal impact on the environment and human health;
- Fostering a viable market for sustainable products and services by supporting business and industry groups that demonstrate innovation in sustainability;
- Supporting suppliers which are socially responsible and adopt ethical practices.

## **4 LEGISLATIVE AND POLICY COMPLIANCE**

Council's procurement activities will be carried out in compliance with:

- the Local Government Act 1989 (as amended);
- This policy and associated procedures;
- Council's Code of Conduct;
- Council's Gifts, Benefit and Hospitality Policy;
- Council's Occupational Health and Safety Management procedures; and
- Other legislative and regulatory provision, including but not limited to, the Competition and Consumer Act 2010, Freedom of Information Act and the Environmental Protection Act.

The key legislative requirements include:

- Section 186 of the Local Government Act (LGA) 1989 (Power to enter into Contracts);
- Section 186A of the LGA 1989 (Procurement Policy);
- Section 3C of the LGA 1989 (Objectives of a Council) ;
- Sections 208C of the LGA 1989 (Applying Best Value Principles);
- Sections 77 – 80C and 95 of the LGA 1989 (Conflict of Interest); and
- Section 98 of the LGA 1989 (Delegations).

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

Council will develop and maintain a procurement manual which will detail the implementation of these legislative provisions.

## **5 DELEGATIONS**

Contracts with a value greater than \$1,000,000 (incl GST) can only be entered into by a resolution of Council.

For procurement spend below \$1,000,000 (incl GST), Council will maintain a scheme of procurement delegations for Council staff authorised to make such procurement commitments in respect of goods, services or works.

Council procurement processes will require authorisation from staff with sufficient financial delegation before Council enters into any binding contracts for the purchase of goods, services or works.

All purchase orders and invoices must have dual authorisation of expenditure, in accordance with the Financial Instrument of Delegation before any payment is made.

## **6 PROCUREMENT DURING AN EMERGENCY**

Where an emergency has occurred, the Chief Executive Officer (CEO) may authorise purchases without the need for competitive procurement processes where the CEO is of the opinion that delays in obtaining and analysing quotations would unduly frustrate the response to the emergency.

Once the immediacy of the incident has passed, all further procurement should be in compliance with this policy and legislation.

For the purposes of this clause, an emergency is defined as '*a sudden or unexpected occurrence requiring immediate action*'.

## **7 PROBITY & ETHICS**

### **7.1 Conduct**

Councillors and staff will at all times act in accordance with the principles enshrined in their respective codes of conduct and free of fraudulent and corrupt activity.

### **7.2 Accountability and Transparency**

All procurement activity will be conducted in accordance with the requirements of this policy, associated Council procedures, the Local Government Act 1989 and all other relevant legislation.

This Procurement Policy is publically available via Council's public website.

Council will also provide open and honest feedback to suppliers who tender for Council business, subject to confidentiality of commercially sensitive information.

### **7.3 Open and Fair Competition**

Suppliers will be treated fairly in an open and transparent manner, with access to the same relevant information to enable them to tender on an equal basis.

Impartiality must be maintained in selecting suppliers to fulfil Council's needs.

### **7.4 Conflict of Interest**

Councillors and staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (Section 95 of the LGA).

Any staff member or person engaged to provide advice or services to Council, must disclose any direct or indirect interest (and the type of interest) before providing advice or reports (Section 80C of LGA).

In procurement matters, all staff involved in preparing specifications, contract documentation, or the evaluation of quotations and tenders must adhere to this policy and complete and lodge a Conflict of Interest declaration prior to commencing any activity in regard to a proposed procurement.

Staff must also immediately disclose any conflict of interest in accordance with the relevant legislation if they become aware of a conflict throughout the duration of the evaluation of tenders / quotation.

### **7.5 Gifts, Benefits and Hospitality**

Under no circumstances should employees involved in the procurement of goods, works or services, solicit or accept any gift, benefit or hospitality from a potential or actual supplier, regardless of value.

Offers of any gift, benefit or hospitality must be declared in accordance with Council's [Gift, Benefits and Hospitality policy](#).

### **7.6 Information Disclosure**

To maintain transparency, Tender Evaluation Reports that are presented to Council may publically publish the successful tenderer's price.

Subject to the Freedom of Information Act, Councillors and staff will protect all other supplier information including:

- commercial in confidence information; and
- pre and post contract information.

Staff will complete and lodge a Deed of Confidentiality prior to accessing supplier information.

Council will publish a summary of publically tendered contracts and a summary of all contracts established via quotations and tenders via biannual public reports including but not limited to:

- the contract number, title and type;
- name of successful suppliers;
- total value of the awarded lump sum contract or the contract size; and
- contract duration.

Councillors and staff will avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

### **7.7 Probity Planning**

A Probity Plan is required where the value of the procurement is greater than \$5M, or where the procurement is considered sensitive, complex, or high risk.

The Probity Plan is to be reviewed and approved by the relevant Director and Executive Officer Strategic Procurement.

The Probity Plan must identify whether a Probity Advisor and/or Probity Auditor needs to be engaged for the procurement process.

In the event a probity auditor or advisor is appointed, such appointment needs to be made before the tender specifications and documentation are completed.

### **7.8 Charter of Human Rights**

Council will ensure that all of its procurement operations are fully consistent with prescribed rights and responsibilities and that they respect the 20 fundamental rights within the Victorian Charter of Human Rights and Responsibilities Act 2006.

## **8 INTERNAL CONTROLS**

### **8.1 Structure**

Yarra Ranges will operate a centre-led procurement structure wherein all strategy, policy, technology, best practice and networking in procurement matters will be led by Council's Procurement Services department.

### **8.2 Controls**

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

- more than one person is involved in each transaction
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained; and
- systems are in place for appropriate monitoring and performance measurement including timely reviews by Council's internal auditors.

### **8.3 Responsible Financial Management**

The principle of responsible financial management will be applied to all procurement activities including the:

- establishment of the source of funds prior to the commencement of any procurement action for the supply of goods, services or works;
- dual authorisation of expenditure for any transaction greater than \$2000 (incl GST);
- authorisation of funds expenditure not to exceed Council staff financial delegations; and
- efficient and effective use of Council funds to procure goods, services and works. Every attempt must be made to achieve best value outcomes without compromising any of the procurement principles set out in this policy.

## 8.4 Record Keeping

Copies of written quotations and any supporting documentation (including decision making records) should be stored as below:

<b>Purchase /Contract Value (inclusive of GST)</b>	<b>Document Storage Requirements</b>
\$2,000 to \$9,999	As an attachment to the Purchase Order within Council's Finance Management System
Greater than \$10,000	Within Council's Contract Management System

## 8.5 Internal Compliance Reporting

Appropriate performance measures and reporting systems will be used to monitor performance and compliance with procurement policies and procedures. This will include but not be limited to regular review of contract variations and compliance with the Procurement Policy.

# 9 PROCUREMENT THRESHOLDS

## 9.1 Quotation Thresholds and Purchase Order Requirements

The purchase of goods, services or works having an estimated total value less than the thresholds contained in the Act must be undertaken using the procurement methods prescribed by Council's procurement procedures as summarised below unless an exception request is approved.

<b>Purchase Value (inclusive of GST)</b>	<b>Quotation Requirements</b>	<b>Purchase Order Requirement</b>
\$0 to \$1,999	Seek at least one written quote	Purchase Order not required
\$2,000 to \$9,999	Seek at least two written quotes	Purchase Order required unless an exempt purchase (see Clause 9.3)
\$10,000 to \$149,999 (for Goods and Services) or \$10,000 to \$199,999 (for Works)	Seek at least three written quotes	

The purchase of goods, works and services at the values outlined above must be acquired under an official purchase order that documents the type of item, quantity and agreed price.

The purchase order must be raised before any commitment is made to purchase goods, works or services from a supplier. The purchase order should clearly and explicitly communicate Council's requirements. Once accepted by the supplier, the purchase order is binding on both Council and the supplier.

## 9.2 Exemptions from Seeking Multiple Quotations

A Director may grant an exemption from seeking multiple quotations when it can be demonstrated that:

- Council is still obtaining value for money in the quotations obtained or the process adopted;
- The process is defensible and able to withstand internal and external scrutiny – one which achieves both accountability and transparency;
- The purchase is being made under an existing council contract, or via an approved agency arrangement, eg Procurement Australia, MAV, State Purchasing Contract
- The service/goods being purchased have been granted a Ministerial Exemption – ie legal services

Prior to seeking approval, advice must be sought from Procurement Services who will review the total cumulative spend with that supplier, and ensure that the justification requirement for exemption has been met.

## 9.3 Exemption from Raising Purchase Orders

The following expenditure types are exempt from the requirement to raise a purchase order.

Expenditure Type	Description
Advertising	Traditional and online media expenses including newspapers, radio, television & internet
Allowances and Reimbursements	For Councillors and employees
Annual maintenance payments	Annual maintenance fees for use of software etc
Contributions	To third parties including Eastern Regional Library, Metropolitan Fire and Emergency Services & other councils
Credit Card Payments	Credit card payments
Direct debits from Council's bank accounts	Including superannuation, lease payments, bank fees
Donations	For communities, charity and/or social enterprise
Emergency Works	For goods, services and/or works requiring action within 48 hours that may otherwise affect business continuity or community safety and/or when the Municipal Emergency Management Arrangements are enacted
Grants and Community Partnerships	For communities, charity and/or social enterprise
Insurance	Premiums and excess payments for insurance claims
Lease payments	Buildings
Legal	Legal expenses
Medical	Medical expenses, Work Cover
Postage and delivery charges	Including Couriers
Property Maintenance	Building Maintenance and Cleaning under an existing contract
Refunds	Including payment of contractor retention monies, overpayments & trust fund repayments. Cost reimbursement for half cost of fencing
Registration Fees	Motor Vehicle (Vic Roads), DPI Animal Registration fees
Reimbursements	For approved staff work expenses and employee entitlement transfers between councils

Subscriptions and memberships	For business associations and memberships approved by Council
Taxation payments	ATO
Temp Labour Hire (Comensura)	Temp Labour Hire through Comensura
Toll and Cab Charges	Toll charges and cab charges
Utility Charges	Gas, Electricity, Water, Telephone-

#### **9.4 Cumulative Spend Thresholds**

Council will monitor cumulative spend with suppliers at least annually. If expenditure with a supplier or a number of suppliers providing similar goods, services or works is ongoing in nature and the cumulative spend is likely to exceed the legislated threshold over a two year period, then Council will review the opportunity to pursue a contract for the aggregated purchase of such goods, services or works through a competitive process.

#### **9.5 Tender Spend Threshold**

Before Council enters into a contract for the purchase of goods, services or works estimated to equal or exceed \$150,000 including GST (for Goods & Services) or \$200,000 including GST (for Works), it must give public notice of the purpose of the contract and invite tenders or issue an expression of interest, unless otherwise allowed under Section 186 Part 5 or 5A of the Act.

Estimated values must be inclusive of reasonable contingency allowances, optional contractual extension periods and GST. Consideration should also be given to the total cost of ownership over the lifetime of the procurement, including but not limited to quality, reliability, risk, sustainability and delivery considerations. Due diligence must be exercised to ensure that realistic assessments are made of all factors which may impact the value of a contract.

Public tenders may also be called for the purchase of goods, services or works where the estimated expenditure is below the legislated thresholds if Council believes that a public tender process would assist in achieving a best value outcome.

#### **9.6 Exemptions from Seeking Tenders**

Only the Minister for Local Government can grant an exemptions from undertaking a public tender at the legislated thresholds. Before seeking a ministerial exemption, approval must be sought from both Procurement Services and CEO.

## **10 PROCUREMENT METHODS AND PRACTICES**

Council's standard methods of procurement shall encompass:

- Purchase (Credit) cards;
- Purchase Order / Quotation;
- Request for Quotation;
- Request for Tender;
- Request for Proposal;
- Expressions of Interest;
- State Purchase Contracts or Whole of Victorian Government Contract; and
- Contract entered into under an arrangement approved by the Minister for Local Government

## **10.1 Risk Management**

Procurement decisions should include an assessment of risks, and include requirements for compliance with OHS and Child Safe legislation.

Aspects to be considered may include, but not be limited to, a risk review of:

- project specifications, tender and contract terms and conditions;
- insurance requirements (including public liability, products liability, professional indemnity and workers compensation); and
- supply continuity and disaster recovery requirements.

For general risk assessment and control, refer to Councils [Risk Management and Policy framework](#).

### **10.1.1 Child Safe Standards**

Council is committed to promoting child safety and ensuring compliance with the Victorian Child Safe Standards. As a key priority, Council is actively promoting child safety and reducing the factors that lead to children being harmed.

Council will review all contractors who are undertaking work on behalf of Council who may have direct or incidental contact with children.

### **10.1.2 Occupational Health and Safety**

Yarra Ranges Council is committed to protecting the health and safety of its employees, councillors, volunteers, contractors and visitors.

All contractors undertaking work on behalf of Council are required to comply with the Occupational Health and Safety Act, applicable regulations, Accident Compensation Act, and the Yarra Ranges Council Health & Safety Management System.

## **10.2 Collaborative Procurement**

Council will consider and cooperate in collaborative procurement opportunities that are likely to enhance the best value outcome for the Local Government sector. This may include standardising specifications, tenders and contracts and sharing resources and experience with other councils.

## **10.3 Sustainable Procurement**

### **10.3.1 Environmental Sustainability**

Council is committed to procurement principles that support a sustainable environment. When buying goods, services or works, consideration will be given to:

- strategies that avoid unnecessary consumption;
- the environmental impact of the goods and services over their whole of life; and
- a supplier's environmental systems and practices.

### **10.3.2 Diversity**

Promoting equality through procurement can improve competition, value for money, quality and community satisfaction. Supplier diversity and equal opportunities will be a consideration in procurement projects wherever possible.

### **10.3.3 Support of Local Business and Industry**

Council recognises the need to support the local economy. To encourage this, Council will actively seek involvement from local suppliers where possible by:

- encouraging local participation;
- designing tenders that attract local businesses; and
- including evaluation criteria that favours the contribution of a supplier to the local economy.

### **10.3.4 Buy Australian**

Council will give preference to goods manufactured in Australia and New Zealand whenever practicable.

### **10.3.5 Social Procurement**

Council will give preference to suppliers who enhance social procurement outcomes for the local community including the principles of fair trade wherever possible. These outcomes may include but are not limited to:

- opportunities for Indigenous people;
- opportunities for people with a disability;
- opportunities for disadvantaged persons, such as long-term unemployed, disengaged youth, and workers in transition; and
- women's equality and safety.

### **10.4 Specifications / Project Brief**

Specifications used in quotations and tenders will be written in a manner that:

- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability; and
- eliminates unnecessarily stringent or market restricted requirements.

### **10.5 Public Notice and Communication**

A leading newspaper will be used to advertise all public tenders.

Council's website will also be used to provide access to public tender documentation (during the tender open period), contract award information, guidelines for doing business with Council, Council standard terms and conditions, standard drawings and civil specifications, Procurement Policy and Procurement Manual.

### **10.6 Market Engagement**

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate approach to market should be undertaken to determine whether to approach the market directly, participate in regional or sector wide collaborative projects, access aggregator or State Government contracts or use other means.

Council will consider supply arrangements that deliver the best value outcome in terms of time, expertise, cost, value and quality, as such lowest price is not necessarily the sole determinate of selecting a supplier.

A wide range of suppliers will be encouraged to compete for Council work. Where appropriate, Council will encourage and develop new suppliers for categories that have low competition.

Council will also carefully plan how it packages its requirements for significant goods, services and works by considering the market landscape (competitiveness, market size and local capabilities) so as to maximise competition and optimise the best value outcome for Council.

Council recognises the importance of effective and open working relationships with its suppliers and is committed to developing and managing supplier relationships by establishing contracts that set reasonable and fair expectations on suppliers.

### **10.7 Late Tenders**

Council will not accept later tenders under any circumstances.

### **10.8 Evaluation**

All evaluation processes must be robust, systematic and unbiased.

## **10.9 Annual Supply / Panel Arrangements**

Council may appoint a panel of contractors as the result of a public tender process, in an annual supply or panel arrangement.

This is a continuing offer by a contractor to provide specified goods or services for a predetermined length of time, usually at a predetermined unit rate, and in accordance with pre-agreed terms and conditions.

When obtaining goods or services from contractors on these panels, Council is not obligated to seek public tenders, however quotations from the panellists may be obtained on a job by job basis to promote competition and ensure best value in accordance with LGA.

## **11 CONTRACT MANAGEMENT**

Council will ensure that it receives goods, services or works provided to the required standards of quality, quantity and price as intended by the contract by:

- monitoring supplier performance;
- proactively managing suppliers; and
- adhering to Council's risk management framework and relevant health and safety compliance procedures.

All Council contracts will incorporate dispute management resolution provisions to minimise the need for litigation.

## **12 REPORTING FRAUD AND COMPLAINTS**

Council regards all allegations of improper conduct and complaints about the procurement process as serious and is committed to handling such disclosures in a sensitive and confidential manner.

Members of the public, suppliers and Council staff are encouraged to report allegations of improper or corrupt conduct by a public officer involved in any Council procurement process.

Please refer to Council's Fraud Control Policy for further information on reporting suspected fraud or corruption.

Feedback and general complaints about procurement processes and procedures should be directed to the Executive Officer - Strategic Procurement (9294 6375).