



South Gippsland Shire Council

PROCUREMENT POLICY

Policy Number	C32	Directorate	Corporate and Community Services
Council Item No.	x.x5.2	Department	Finance
Adoption Date	24 June <u>20192020</u>	Primary Author	Coordinator Risk and <u>Senior Procurement Officer</u>
Revision Date	30 June <u>20202021</u>	Secondary Author	Procurement Officer

1. POLICY OBJECTIVE

The Procurement Policy aims to:

- Achieve value for money for ratepayers;
- Ensure open and fair competition;
- Ensure openness and transparency of the decision making process;
- Achieve high standards of probity, accountability and risk management;
- Achieve compliance with legislation;
- Reduce the risk of fraudulent behaviour and financial misuse;
- Promote Environmental Sustainability; and
- Seek to support local and social procurement.

2. POLICY STATEMENT

Council is committed to ensuring that its purchasing practices are fair and transparent, comply with the law and deliver best value for money.

3. POLICY DETAILS

3.1. Environmental and ethical considerations

Council is committed to reducing its environmental impacts and will encourage the design and use of products and services that have been produced to ethical standards, which minimise as far as practicable the impact on the environment and human health.

3.2. Local ~~and preferred~~ suppliers

As Council recognises the contribution made by-through procurement to the economic prosperity of the Shire, local suppliers and providers are encouraged to compete for the provision of Council goods, services and works. In addition, Council staff are encouraged, where appropriate to purchase from local businesses, namely suppliers within the South Gippsland Shire and the immediate neighbouring municipalities. Purchases are to be justified on best value grounds for South Gippsland Shire, which include local economic, environmental and social benefits. Further Council staff are required to use '~~preferred local~~ suppliers' whenever possible or available according to Procurement Manual guidance where costs may exceed other non-local alternatives.

3.3. Late tenders

Council will only accept tenders via its electronic e-Tendering system. Council will not accept late tenders unless it can be clearly documented that:

- There was a system failure / interruption with Council's electronic e-Tendering system that impacted on lodgement; and
- The Chief Executive Officer agrees to acceptance.

3.4. Internal control framework

Council will establish, document and maintain a framework of internal controls over procurement processes.

Council requires all procurement activities to be performed with integrity and in a manner able to be upheld under close audit scrutiny. This requires all relevant Councillors and staff to act impartially and with integrity, avoiding conflicts of interest. Further, the Chief Executive Officer ~~could~~ may approve a formal probity plan for proposed high value, high risk or complex contracts which require a higher level of public confidence in accordance with the Procurement Manual.

Internal processes are required to anticipate prevent potential undisclosed conflict of interest, fraudulent behaviour and misuse of Council funds and resources to the extent possible and proactively reduce these risks through the use of detection and process preventative and detection processes and controls. Clear guidance is to be given to staff including the potential penalties, which can include termination of employment, cost recovery and legal action.

Council has established and will maintain an Instrument of Delegation from Council to the Chief Executive Officer, including which includes procurement delegations.

3.5. Procurement guidance

The Chief Executive Officer will manage procurement activities on behalf of Council by establishing and maintaining:

- A Procurement Manual including procurement methods, procurement approval levels for staff, supporting processes and procedures; and
- Alignment with relevant Council Policies and supporting internal corporate policies and procedures.

3.6. Procurement thresholds

The purchase of goods or services to the value of \$150,000 or more, or for the carrying out of works to the value of \$200,000 or more, including GST, (or as otherwise prescribed by Order in Council) for the whole term of the contract will be undertaken by an open public tender process, unless one of the nominated legislated exemptions apply. Procedures for tenders, quotations and other procurement methods are set out in Attachment A, the supporting Procurement Manual and other relevant Council / Corporate policies.

3.7. Negotiations

Council may engage in post tender negotiations subject to these being conducted in accordance with Council's Procurement Manual and the Victorian Local Government Procurement Guidelines.

3.8. Disclosure of information

A Contract Register that contains details of all contracts that have been awarded through a tender process will be publically available, including on Council's website. This register will show the contract purpose, the recommended / successful tenderer(s), a brief description of the goods, services or works that are being procured (including contract length) and total contract price. Council will not disclose information about procurements below the statutory thresholds.

3.9. Special (Section 86) Committees

Approval to enter into contracts which exceed a Special (Section 86) Committees financial delegation to enter into contracts as outlined in their Instrument of Delegation must be approved by a Council Officer possessing the required financial delegation as set by the Chief Executive Officer in Council's Procurement Manual. The approving officer must confirm compliance with Council's Procurement Policy / Manual ~~and~~, ensure necessary permits / safety arrangements are in place. ~~and~~ ~~†~~This decision must be documented.

3.10. Contract cost variations

All proposed contract cost variations which exceed the total approved contract price require approval at the level of the total revised contract amount, rather than the variation itself, in line with procurement approval levels set in Council's Procurement Manual or any relevant Council resolution. Should the revised contract amount exceed the CEO's delegation, the CEO is authorised by Council to approve any necessary variations to allow the proper fulfilment of the contract and to ensure delays to key projects are avoided, following consultation with the Mayor and subject to this variation being reported to the next practicable Council Meeting.

Any anticipated Contingency allocation is to be approved within the original contract approval to ensure the full expected expenditure is being considered. This amount is to be stipulated in contract approval recommendation reports. The contingency amount is to be in accordance with the manual, but may vary for specific contracts.

Latent conditions are specific to construction contracts and are physical conditions that could not reasonably have been anticipated by a competent contractor at the time of tendering. These are a specific cost variation that typically requires rapid consideration and approval. Special clauses for approval communication are included in the Procurement Manual for those latent conditions which exceeding contingency amounts for reporting in the next Document Sealed, Awarded or Extended report.

3.11. Contract extensions

The CEO is authorised to enter into ~~any~~ each of the contract extensions that were contemplated and approved in the initial contract approval subject to the satisfactory performance of the contractor. The extension must be reported to Council for any contracts which in total exceeds the CEO's delegation.

3.12. 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.

3.13. Property leases or licences

For a property lease or licence to occupy where Council is the lessee:

- The approval limits outlined in Section 6 of the Procurement Manual apply to the approval to enter into the lease or licence, for the full rental value of the lease or licence including rental for any further terms.
- The entering into the lease or licence is not viewed as the purchase of a service and is therefore not subject to section 186 of the Local Government Act 1989. However, other relevant principles and guidance from the Procurement Policy and Manual must be applied where applicable.
- The approval of any further lease or licence terms, requires the approval of the Director Infrastructure and either the Manager Infrastructure Planning or Coordinator Property. Where the full rental value of the lease or licence exceeds the CEO's delegation, the CEO must consult with the Mayor to determine if the approval should be referred to Council for a decision or if the approval can be made by the CEO under delegation (subject to this approval being reported to Council).

3.14. Further guidance

Should a matter arise that is not covered by this policy or the relevant Legislation, Standards, Guidelines, other Council Policies or Council's Procurement Manual, the matter must be referred to the Chief Executive Officer to determine [the appropriate action](#).

4. RISK ASSESSMENT

The effective management of financial resources and legislative compliance are strategic risks for Council. The establishment and adherence to a Procurement Policy, supporting Procurement Manual, expenditure thresholds and clear accountabilities for managing procurement, are put in place to effectively control these aspects of the broader financial management strategic risk.

5. ~~IMPLEMENTATION STATEMENT~~ PROCUREMENT MANAGEMENT

This Policy will be ~~implemented~~ managed and monitored through the following activities:

- 5.1. Maintaining a Procurement Manual which details expenditure thresholds (also refer Attachment A) ~~and with~~ relevant information and processes to ~~implement~~ achieve this Policy.
- 5.2. Maintaining a procurement management responsibility structure including delegations and performance reporting (including an annual report on the spend of Council's supply and service panels) which ensure accountability, traceability and auditability of all goods, services and works purchased by the Council.
- 5.3. Operation of a centre-led procurement structure wherein all strategy, policy, technology, best practice and coordination in procurement matters will be led by the Finance Department. This structure incorporates centralised procurement for tenders and decentralised procurement for quotations and lower valued purchases, in line with expenditure thresholds contained in the Procurement Manual.

- 5.4. Reviewing its Procurement Policy every financial year as required by the Local Government Act 1989. The Audit Committee will be invited to participate in this review.
- 5.5. Reviewing the Procurement Manual when required to reflect legislative changes or where agreed in response to recommendations contained in internal or external reviews and audits.
- 5.6. Delivering a training and development program to inform Councillors, Staff, Section 86 Committees and other relevant individuals and/or groups undertaking procurement activities on behalf of Council of the requirements of this policy and the supporting manual.
- 5.7. Publishing the Procurement Policy on Council's website www.southgippsland.vic.gov.au and available at the main Council office 9 Smith Street Leongatha.
- 5.8. Making accessible the Procurement Policy and Procurement Manual to staff internally through Council's intranet. Further a procurement presence on the intranet will be maintained that contains policies, procedures, templates, information and guidance material relating to procurement activities and purchase orders.

6. DEFINITIONS

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

All other definitions, explanations and implementation information applicable to this Policy are contained in the supporting Procurement Manual.

7. REFERENCE DOCUMENTS

Council Policy

- Procurement Manual.
- Code of Conduct for Councillors / Staff.
- Community Infrastructure Project Management Policy and Guidelines.
- Council Land Ownership Policy.
- Acceptance of Gifts and Donations Policy.
- Fraud and Corrupt Conduct Policy.
- National Competition Policy.
- Human Rights Policy.
- Protected Disclosure Guidelines.
- Risk Management Policy.
- Occupational Health and Safety Policy.
- Council Instrument of Delegation to Chief Executive Officer.

Legislative Provisions, Standards and Guidelines

This Procurement Policy is developed to comply with Section 186A of the Local Government Act 1989 (the Act). Section 186A requires 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 Council. Other provisions of the Act applicable to Council's Procurement Policy are:

- Section 3C of the Act: Objectives of a Council.
- 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.
- Section 186 of the Act: Power to enter into Contracts.
- Section 190 of the Act: Restriction on power to lease land.
- Sections 208A of the Act: Best Value Principles to be followed.
- Sections 208C of the Act: Applying Best Value Principles.
- Sections 208A of the Act: Best Value Principles to be followed.
- Local Government (General) Regulations 2015.

Other relevant legislation; such as but not limited to; include:

- Competition and Consumer Act 2010.
- Victorian Charter of Human Rights and Responsibilities Act 2006.
- Environmental Protection Act 1970.

Relevant Standards and Guidelines include:

- National Competition Guidelines 2009.
- Department of Planning and Community Development (DPCD) Local Government Procurement Best Practice Guidelines 2013.
- Municipal Association Victoria (MAV) Contract Management Guidelines.
- Victorian Government Purchasing Board Guidelines (VGBP).

8. ATTACHMENTS

Attachment A: Procurement Thresholds

	TRANSACTION LIMITED BY HOLDERS PURCHASING CARD	\$0 – \$9,999	\$10,000 – \$49,999	\$50,000 – \$134,999 GOODS / SERVICES \$179,999 WORKS	\$135,000 + GOODS / SERVICES OR \$180,000 + WORKS
Procurement Process	Purchasing Card or Employee Expense Reimbursement	Single Quotation	Quotation	Closed Tender <	Open Public Tender <
No quote required	R	x	x	x	x
Obtain one written quote	x	R	x	x	x
Obtain two written quotes	x	x	R	x	x
Seek a minimum of 3 written submissions	x	x	x	R*	x
Public Tender	x	x	x	x	R
Evaluated by	x	Officer, Coordinator or Manager	Officer, Coordinator or Manager	Panel	Panel
Record keeping requirements	Receipts in Oracle - Expenses	Invoice, Receipt or Quote in Oracle - Purchase Requisition	TRIM & Oracle - Purchase Requisition	TRIM, CMS & Oracle - Purchase Requisition	TRIM, CMS & Oracle - Purchase Requisition

- All figures are excluding GST.
- The Procurement Process selected must be approved by the Council Officer authorised under Section 6 of Council's Procurement Manual, Procurement approval levels.
- * Officers are required to seek a minimum of three written submissions. It is recommended to maximise best value that a sufficient number of Request for Tenders (RFT) are sent to prospective suppliers to increase the likelihood that three written submissions are received.
- < If doubt exists as to whether the likely value of an intended contract would exceed the threshold for a public tender, then a public tender process should be undertaken.
- When undertaking a joint procurement exercise with another council/s, advertising a public tender is required when the contract that South Gippsland Shire Council is anticipated to enter exceeds the threshold required for a public tender.