



South Gippsland Shire Council

## PROCUREMENT POLICY

Policy Number	C32	Directorate	Performance and Innovation
Council Item No.	xx	Department	Governance
Adoption Date	{date} 2021	Primary Author	Coordinator Procurement
Revision Date	{date} 2022	Secondary Author	

### 1. POLICY OBJECTIVE

The Procurement Policy aims to:

- Achieve value for money for the community;
- 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.

These policy objectives are consistent with The Local Government Act 2020 S4(b) that Council is accountable, transparent, collaborative, efficient and engaged with the South Gippsland community.

### 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.

Part of this commitment is to ensure continuous improvement of procurement practices. This will be undertaken to mature the procurement system and will consider investigations and reports from investigative authorities ensuring best practice risk mitigation, as well as adopting improvements for efficiency and effectiveness from new systems and technology, process improvements from the procurement community and other sources, and the experience and expertise in-house through the Procurement Working Group.

### 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 suppliers

As Council recognises the contribution made 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, 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, staff are required to use '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.

All procurement activities are required 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 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 prevent 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 prevention 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.

An Instrument of Delegation has been established and will be maintained from Council to the Chief Executive Officer, which includes procurement delegations.

### 3.5. Procurement guidance

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

- this Procurement Policy;
- 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 (including works) to the value of \$250,000 or more, excluding 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 and/or legislated exemptions apply including the declaration of an 'emergency event' by the Chief Executive Officer.

When an emergency event is declared it will be managed in accordance with the Chief Executive Officer's delegation and incorporates an 'emergency event financial

delegation' of an accumulative amount of \$1,000,000 inclusive of GST for contracts specifically relating to repair and remediation requirements directly attributable to that emergency event.

Tenders will be listed in the Council Noticeboard which is published on the Council website as well as advertised in selected local newspapers, advertised in the tender section of other newspapers considered relevant to the procurement, and should be considered for listing on business networking platforms.

The successful tenderer(s) of publicly tendered opportunities will be listed on the publicly available Council website.

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. Sole source procurement exemptions**

Council at times makes purchases at values above the single quote threshold, normally requiring a competitive process (multiple quotes or formal tender), but may find there is no competitive market for that particular product or service. One such example is software licences which are only available from the vendor/manufacturer of that software and therefore a requirement to seek multiple quotes or tender responses is unenforceable.

Officers seeking sole source procurements are to request exemption from the public tendering or multiple quote requirement from the CEO prior to the quoting or tendering process occurring. CEO approval for the sole source procurement, if given, is to then be included in the recommendation to Council or relevant approver as a part of the purchase justification and is to be explained in the Justification field of the accompanying Purchase Order.

### **3.8. 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.

### **3.9. Disclosure of information**

A Contract Register that contains details of all contracts that have been awarded through a tender process will be publicly available, including on the South Gippsland Shire 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.

### **3.10. Community Asset (Section 65) Committees**

Approval to enter into contracts which exceed a Community Asset (Section 65) 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. This decision must be documented.

### 3.11. 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's 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 exceed contingency amounts for reporting in the next *Document Sealed, Awarded or Extended* report.

### 3.12. Contract extensions

Many contracts are awarded on the basis of an initial fixed term with pre-defined extensions to the contract period included subject to mutual agreement and satisfactory performance. The CEO is authorised to enter into 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.

### 3.13. 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.

### 3.14. Collaboration

In accordance with the Act, Section 108(3c), Council will seek to collaborate with other Councils and Public Bodies through the various networks. Other networks in which Council officers are engaged may also provide collaboration opportunities depending on the procurement opportunity being considered.

Collaboration will be sought where it can be demonstrated that the Value For Money proposition will be improved by the scaling up of the opportunity with the inclusion of

other Councils and Public Bodies. Value For Money, in regards to collaboration, will consider the relative cost reductions achieved by the scaling up of the opportunity in comparison to any additional costs incurred such as delays to accommodate timing differences between Councils, the multi-party contract management regime imposed, and the contractual complexities incurred such as handling of securities and early contract withdrawal by one or more parties. Collaboration will be sought by email request to the Procurement representative of each Gippsland RPEN member inviting their interest in collaborative participation. Relevant opportunities will also be communicated with other networks and government bodies on a per opportunity basis.

In accordance with the Act, Section 109(2), each report to Council recommending entering in to a procurement agreement, will include information relating to the opportunities for collaboration.

### 3.15. Value for Money

Value for Money is the guiding principle of Council procurement decisions and is in accordance with the Act, Section 108(3b). Value For Money (VFM) seeks to make sound judgement procurement decisions based on much more than least cost. For each goods, services or works opportunity, VFM considers aspects relevant financial and non-financial elements such as (but not limited to):

- Quality
- Longevity
- Fitness for purpose
- Operational costs
- Experience and performance history
- Flexibility, innovation and adaptation
- Whole of life costs including acquisition, decommissioning and disposal costs
- Environmental impact including recyclability or reuse considerations.
- Backup and Support systems
- Licencing, registering and training costs
- Legal costs
- Risk, security and safety considerations

The relevant aspects of each procurement are to be considered by each officer in making each procurement decision.

In tendered opportunities, the relevant VFM elements form the assessment criteria and are weighted and scored as a quantitative means to determine the offer representing best value for money. These criteria and their weighting are to be established and fixed prior to all closed and open tenders being sought, are to be included in the tender documentation, and then evaluated once all responses have been provided. The response evaluation is to be included with the recommendation to the final tender/contract approver.

### 3.16. Blanket and period-based purchase orders

Typical procurement utilising purchase orders requires one or more quotes to support the transparency and veracity of the purchase. Certain circumstances warrant that the most efficient and effective purchasing method is to establish a purchase order covering a period or aggregate quantity of supply. In other cases, a fixed price cannot be established prior to event.

This provision recognises that in these circumstances, obtaining a fixed price quote for supply is not feasible and therefore a purchase requisition can be raised and subsequent purchase order approved without a quote attached on the proviso that a sound explanation of the reason for the purchase is included in the Justification field of the purchase order and schedule or rates or charges included if available. The approval of the approver confirms that the purchase is within the available budget for that goods or service provision.

### **3.17. Procurements with vendor provided terms and conditions**

For the majority of purchases, SGSC set the terms and conditions of the contract through providing them for acceptance in the tender documentation, or providing them with each purchase order. These terms and conditions establish the contractual protections for Council. Information Technology and consulting related procurements often differ in that the terms and conditions are typically established by the vendor for acceptance by SGSC; Typical examples are software licences, software and hardware support agreements and consultancies.

In such cases, the terms and conditions are to be provided to and reviewed by the Procurement team prior to acceptance. The Procurement Officer may recommend amendment to the terms and conditions from the vendor prior to the procurement proceeding. If the procurement is above the tender threshold, the procurement officer chairing the tender process will negotiate amendments with the vendor prior to the offer being finalised for recommendation and acceptance.

### **3.18. 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 108 and 109 of the Act. 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).

### **3.19. 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. PROCUREMENT MANAGEMENT

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

- 5.1. Maintaining a Procurement Manual which details expenditure thresholds (also refer Attachment A) with relevant information and processes to 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 Governance 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. Review of this Policy no later than every four years, as required by the Local Government Act 2020. 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, 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](http://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 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.

### Victorian Competitive Neutrality 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 108 and 109 of the Local Government Act 2020 (the Act). Section 108 and 109 require 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 4 of the Act: Objectives of the Act.
- Sections 126 through 131: Conflict of Interest.
- Sections 11 and 47 of the Act: Delegations.
- Section 105 of the Act: Accounts and Records.
- Section 114 of the Act: Restriction on power to lease land.
- Sections 108(2) of the Act: Best Value Principles to be followed.
- Local Government Regulations 2020.

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.
- Victorian Competitive Neutrality Policy
- 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 – \$249,999 GOODS / SERVICES / WORKS	\$250,000 + GOODS / SERVICES / WORKS
Procurement Process	Purchasing Card or Employee Expense Reimbursement	Single Quotation	Quotation	Closed Tender, 3 Quotations <	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.