



## Procurement Policy

|                     |                         |                   |                |                |                |
|---------------------|-------------------------|-------------------|----------------|----------------|----------------|
| Department/Unit     | Business & Performance  | First Implemented | December 2016  | Review Date    | September 2027 |
| Origin              | Procurement Officer     | Reviewed          | July 2023      | Version        | 6              |
| Authorising Officer | Chief Executive Officer | Effective From    | September 2023 | TRIM Reference | E5313          |

### Purpose

This policy supports Council to effectively discharge their responsibilities under Section 108 of the [Local Government Act 2020 \(the Act\)](#). The Act requires each council to:

- ▶ Prepare and adopt a Procurement Policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services by Council, including for the carrying out of works; and
- ▶ Review its Procurement Policy at least once during each 4 year term of Council.

### Policy Statement

Council procurement activities will:

- ▶ seek to promote open and fair competition and provide value for money,
- ▶ establish consistency and control over Council purchasing practices,
- ▶ ensure accountability to rate payers,
- ▶ provide guidance on ethical behaviour in public sector purchasing,
- ▶ promote the application of elements of best practice in purchasing, and
- ▶ consider sustainability in procurement with respect to social, economic and environmental factors.

In undertaking procurement, Council's purchasing, contracting and contract management activities will:

- ▶ support Council's strategic aims and objectives,
- ▶ span the whole life cycle of an acquisition,
- ▶ seek continual improvement through innovative and technological initiatives, and
- ▶ generate and support local business wherever practicable.

## Definitions and Abbreviations

| Term                     | Definition   |
|--------------------------|--|
| The Act                  | <i>Local Government Act 2020.</i>  |
| Value for Money          | Value for money in Procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none"> <li>• non-cost factors such as fitness for purpose, quality, service, support, and the contribution to the advancement of Council's priorities, and</li> <li>• cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining, and disposing of the goods, services or works.</li> </ul> |
| Commercial in Confidence | Information that, if released, may prejudice the business dealings of a party e.g. prices, discounts, rebates, profits, methodologies and process information.   |
| E-Tender Portal          | An internet-based electronic tendering system that allows Council to electronically invite or advertise, distribute documents, securely receive and open tenders, and provide various notices.   |
| Integrity                | The use of funds, resources, assets, and authority, according to the intended official purposes and in a manner that is well informed, aligned with the public interest, and aligned with broader principles of good governance.   |
| Probity                  | Within Local Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.  |
| Procurement              | Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract. It also includes the organisational and governance frameworks that underpin the procurement function.   |

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| Term           | Definition  |
|----------------|---|
| Sustainability | Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.   |
| Tender Process | The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer. |

## Scope

Council's Procurement Policy is the primary reference point for how all the procurement of goods, services and works should be performed. It forms part of Council's governance framework and it applies to all Council employees, Councillors, contractors, consultants, volunteers, and other authorised personnel of Mansfield Shire Council.

## Responsibilities

This Procurement Policy is made in accordance with Section 108 of the *Local Government Act 2020*.

Overall responsibility for the application of this policy is held by the Chief Executive Officer.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Business and Performance Department is the owner of this policy. Any reviews of this policy must be made in consultation with the Manager Business and Performance and the Procurement Officer.

Council's Audit and Risk Committee monitor compliance of the procurement policy and its prescribed processes.

## Procurement Principles

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

- ▶ value for money;
- ▶ sustainability (social, economic and environmental);
- ▶ open and fair competition;
- ▶ accountability;
- ▶ risk management and
- ▶ probity and transparency.

## Policy Implementation

This Policy is supported by Council's organisational Procurement Procedure – Guide to Purchasing.

### Probity, Accountability and Transparency

Council's procurement activities shall be performed in an open, transparent, and ethical manner with demonstrated integrity and accountability.

All tender processes are to be conducted in accordance with the requirements of this Policy and the Procurement Procedure – Guide to Purchasing, and relevant legislation.

Accountability in procurement means being able to justify and provide evidence of the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair and reasonable.

Council staff must be able to account for all procurement decisions and ensure all procurement activities leave an audit trail for monitoring and reporting purposes.

Councillors and Council staff will at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and:

- ▶ treat potential and existing suppliers with equality and fairness,
- ▶ not seek or receive personal gain,
- ▶ protect the commercial interests of existing and potential suppliers,
- ▶ present the highest standards of professionalism and probity,
- ▶ deal with suppliers in an honest and impartial manner that does not allow conflicts of interest,
- ▶ provide all suppliers and tenderers with the same information and equal opportunity,
- ▶ be able to account for all decisions and provide feedback on them,
- ▶ ensure their actions embody the principles of sound financial and risk management, and
- ▶ comply with all legal and policy requirements.

Confidentiality of information provided by existing and prospective suppliers will be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

For tenders deemed to be of material significance or deemed to be of high risk, a Probity Advisor may be appointed. Where a requirement for Probity Advisor is nominated in the Procurement Plan, the Probity Advisor will be engaged prior to the commencement of the procurement process.

### Governance

Council will:

- ▶ establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle

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of all goods, services, and works purchased by Council, and

- ▶ ensure that Councils' procurement structure:
  - is flexible enough to purchase in a timely manner the diverse range of material, goods, services and works required by Council,
  - ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote, and
  - encourages competition and collaboration.

### Internal Controls

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

- ▶ more than one person is involved in and responsible for a transaction end to end,
- ▶ transparency in the procurement process,
- ▶ a clearly documented audit trail exists for procurement activities,
- ▶ appropriate authorisations are obtained and documented, and
- ▶ systems are in place for appropriate monitoring of procurement activities.

### Delegation of Authority

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner.

Council will maintain a documented register of procurement delegations, identifying Council staff authorised to make such procurement commitments in respect of goods, services and works on behalf of Council. This document can be found on the Procurement page on the Council Intranet.

Commitments which exceed the Chief Executive Officer's delegation, and which must be approved by Council are tender recommendations and contract approval for all expenditure over \$200,000.

### Conflict of Interest

Councillors and Council employees shall at all times avoid situations which may give rise to an actual or perceived conflict of interest and act in accordance with Council conflict of interest procedures.

Anyone participating in a procurement evaluation process is required to declare any interest they may have in the outcome of the evaluation by completing the Conflict of Interest Declaration Form. For clarity, this includes any actual, potential and/or perceived direct or indirect interest that might reasonably be thought to be in conflict with their role.

If an interest is declared, the panel member's Manager will determine how best to manage the interest. Depending on the significance of the declared interest, the Council officer may be

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required to take no further part in the process, to undertake a reduced role or to continue their involvement with their interest known to all others involved in the evaluation process.

### Complaints Handling

Members of the public, suppliers, employees, staff, and Councillors are encouraged to report known or suspected incidences of improper conduct to Council's Governance Officer. Complaints will be handled in accordance with Council's Complaints Resolution Policy.

In accordance with Council's Public Interest Disclosures Policy, Council will take all reasonable steps to protect those who assist Council by reporting providing known or suspected incidences of improper conduct.

### Value for Money

Council's procurement activities will be carried out on the basis of obtaining best value for money. This means optimising the total cost of ownership and use over the lifetime of the goods or service consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinant of value for money.

This will be facilitated by:

- ▶ achieving continuous improvement in procurement activity,
- ▶ developing, implementing and managing processes that support the co-ordination and streamlining of activities throughout the procurement lifecycle,
- ▶ effective use of competition,
- ▶ the use of existing Council contractual arrangement or collaborative procurement arrangements where appropriate,
- ▶ identifying and rectifying inefficiencies in procurement processes,
- ▶ developing cost efficient tender processes,
- ▶ the provision of competent advice in terms of available products and agreements, by Council staff responsible for providing procurement services or assistance within Council' and
- ▶ working with suppliers to create relationships that are professional, productive, and are appropriate to the value and importance of the goods, services and works being acquired.

### Sustainable Procurement

Sustainable procurement involves decision making that has the most positive environmental, social, and economic impacts possible across the entire lifecycle of goods, services and works.

The United Nations Environment Programme defines sustainable procurement as a "process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole of life basis in terms of generating benefits not only the organisation, but also to society and the economy whilst minimising damage to the environment."

Council commits to consider the principles of sustainability in its procurement decision-making and activities.

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Council demonstrates sustainable procurement by:

- ▶ being accountable for its impacts on society, the economy and the environment including the impacts of the organisation's supply chain, and
- ▶ continually improving sustainability specifications, practices, and outcomes.

### Human Rights Charter

This Policy has been developed with consideration of the requirements under the Charter of Human Rights and Responsibilities.

### Child Safe Standards

Council is committed to promoting child safety and ensuring compliance with the Victorian Child Safe Standards. As a key priority, Council will actively promote child safety and reduce the factors that lead to children being harmed. Council will review all suppliers who undertake work on behalf of Council who may have direct or incidental contact with children.

### Risk Management

Risk assessments are a vital part of the procurement planning process, particularly for significant contracts. Risks will be identified for each part of the sourcing, transition, delivery and finalisation stages of procurement. Appropriate risk avoidance and mitigation strategies will be employed whenever practicable and appropriate.

### Procurement Methods

Council's standard methods for purchasing goods, services and works shall be by some or all of the following methods:

- ▶ purchasing card,
- ▶ purchase order following a quotation,
- ▶ under contract following a tender process,
- ▶ using aggregated purchasing arrangements with other Councils, MAV Procurement, Victorian Government, or other bodies, and/or
- ▶ other arrangements authorised by Council or the Chief Executive Officer on a needs basis as required by abnormal circumstances such as emergencies.

### Procurement Methodology

In accordance with Section 108 of the Act, Council will establish public tender thresholds for circumstances when tenders or expressions of interest for contracts must be publicly advertised.

Funds must be available in the approved Council Budget before tenders, proposals or quotes are sought.

### Public Tender Requirements

All public tenders advertised by Council, will be published via Council's approved e-Tendering Portal and will be advertised in the media and via Council's website.



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Exemptions

The following circumstances are exempt from the general publicly advertised tender and quotations requirements:

- ▶ a collaborative engagement is in place - a contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party,
- ▶ extension of contracts while Council is at market,
- ▶ professional services – legal services,
- ▶ information technology resellers and software developers,
- ▶ situations where Regional Waste and Resource Recovery Groups provide tender opportunities on behalf of its members,
- ▶ Statutory Compulsory Monopoly Insurance Schemes,
- ▶ grant monies when there are specific instructions for Council to act as funds manager and pass on funds from another level of government or other body,
- ▶ operating leases, or
- ▶ other specific Council exemptions. The Chief Executive Officer may approve ad-hoc exemptions in exceptional circumstances where it can be demonstrated that it is in the best interest of the community to do so:
  - a genuine emergency,
  - sole supplier or inability to obtain sufficient quotations,
  - advantageous time limited conditions,
  - intellectual property, or
  - support from original supplier.

Procurement Thresholds

Quotation and tender requirements are based on the purchase value set out in the purchase threshold table below.

| Below \$2,000 | \$2,001 to \$20,000   | \$20,001 to \$75,000  | \$75,001 to \$200,000  | Greater than \$200,000  |
|---------------|---|---|--|---|
|               | Minimum one written quotation. Where possible, if more than one local supplier, staff are encouraged to seek additional quotes. | Minimum of three written quotations, optional use of RFQ Template and E-Tender Portal. Minimum advertising for 14 days. | Minimum of three written quotations using RFQ Template and E-Tender Portal. Minimum advertising for 14 days. | Advertised Public Tender using RFT Template and via E-Tender Portal. Minimum advertising for 21 days. |

**Any calculations to determine a procurement value or a delegation must be exclusive of GST.**



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### Evaluation Criteria

The evaluation criteria, weightings and the evaluation panel must be established prior to market engagement.

Council is not obligated to consider submissions that do not meet the mandatory criteria. The aim of the evaluation process is to select a tender and/or quotation that offers the best value for money to Council while ensuring that all respondents are treated in a fair, equitable and impartial manner.

Council will ensure that the evaluation of tenders and quotations is undertaken on a systematic basis using evaluation criteria identified in the tender documentation. Council can negotiate with a preferred respondent or bidder to achieve an acceptable outcome, provided it is reflective of the brief or scope advertised.

Council will include the following within the evaluation criteria to determine whether a proposed contract provides value for money:

- ▶ mandatory compliance criteria,
- ▶ price,
- ▶ capacity of the supplier to provide the goods and/or services and/or works, and
- ▶ capability of the supplier to provide the goods and/or services and/or works.

### Shortlisting and Negotiations

Council may conduct a shortlisting process during tender and quotation processes. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for Council.

Shortlisted tenderers may be invited by Council to submit a best and final offer in relation to all or certain aspects of their respective tenders.

When one or more preferred tenderers are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements within the original scope and intent of the tender. Probity requirements apply to all negotiations.

### Collaboration

In accordance with Section 108 (c) of the Act, Council will seek to collaborate with other councils and public bodies in the procurement of goods and services in order to take advantage of economies of scale.

Council staff will consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council over the \$200,000 public tender threshold.

Any Council report that recommends entering into a procurement arrangement will set out information relating to opportunities for collaborative procurement, including:

- ▶ the nature of those opportunities, if any, and the councils or public bodies with which they are available and

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- ▶ why Council did, or did not, pursue the identified opportunities for collaboration in relation that procurement process.

Council may collaborate with other councils or utilise MAV Procurement, Victorian State Government and Procurement Australia contracts for the procurement of goods, services or works established through a public tender process where it provides an advantageous, value for money outcome.

## References / Related Policies

### Council Plan 2021-2025

- ▶ Strategic Objective 7 Financial sustainability and value for money

### Relevant Legislation

- ▶ Local Government Act 2020
- ▶ Competition and Consumer Act 2010
- ▶ Public Records Act 1973

### Related Council Policies

- ▶ Contract Management Policy
- ▶ Councillor Code of Conduct
- ▶ Employee Code of Conduct
- ▶ Equal Opportunity and Human Rights Policy
- ▶ Fraud and Corruption Policy
- ▶ Gifts, Benefits and Hospitality Policy
- ▶ Occupational Health and Safety Policy
- ▶ Purchasing Card Policy
- ▶ Risk Management Policy
- ▶ Complaint Resolution Policy

### Related Council Procedures

- ▶ Procurement Procedure – Guide to Procurement

### Other Documents

- ▶ Victorian Local Government Best Practice Procurement Guidelines

## Gender Impact Assessment

The Procurement Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Procurement Policy has been assessed as not requiring a Gender Impact Assessment (GIA).

## Implementation

This policy is effective from 19 September 2023.

## Review Date

This policy shall be reviewed at least once every four years. In accordance with the *Local Government Act 2020*, each review of this policy must be endorsed by the Mansfield Shire Council.

Minor amendments to the policy may be authorised by the Chief Executive Officer at any time where such changes do not alter the substance of the policy for example, typographical errors, a change to the names of a related policy or a change to the name of legislation.

This policy is scheduled for review by 1 July 2027, however it may be reviewed or varied at any time in consultation with Council.

## Authorisation to Implement Policy

Signed: \_\_\_\_\_

Councillor

Witnessed: \_\_\_\_\_

Chief Executive Officer

Approval dated: 19 September 2023

**Mansfield Shire Council reserves the right to review, vary or revoke this policy at any time.**