



PROCUREMENT POLICY

TABLE OF CONTENTS

1. Purpose	1
1.1 Key outcomes	1
1.2 Key principles	1
2. Scope of Policy	2
3. Policy Statement	2
4. Key Principles	2
4.1 Value for Money	2
4.2 Accountability and Transparency	3
4.3 Fair and Honest Dealings	3
4.4 Support for Local Content	3
4.5 Support for Sustainability, Sustainable Procurement and Environment	4
4.6 Circular Economy and Circular Procurement	4
4.7 Social Procurement	5
5. Risk Management	5
5.1 General	5
5.2 Probity	5
5.3 Insurance Requirements	6
5.4 Competition and Consumer Act Compliance	6
5.5 Gifts, Benefits and Hospitality	7
5.6 Fraud and Corruption Control	7
5.7 Disclosure of Information	7
5.8 Conduct of Councillors and Council officers throughout the Procurement Process	7
5.9 Auditing and Compliance	9
6. Procurement Planning and Methods	9
6.1 Determining the appropriate method of Procurement	9
6.2 Collaborative Tendering	9
6.3 In-House Bids	10
6.4 Internal Delivery of Service	10
6.5 Procurement Auctions	10
6.6 Tender evaluation and evaluation criteria	11
7. Procurement Thresholds and Delegations	12
7.1 Financial Delegations and Authorisations	12
7.2 Matters not Delegated to Council officers	13
7.3 Procurement Expenditure Thresholds	13
7.4 Exemptions from Procurement Expenditure Thresholds	14

7.5	Contract Variations	15
8.	Administrative Updates	15
9.	Roles and Responsibilities	16
9.1	Responsibilities of the Procurement Team	16
9.2	Management roles and responsibilities	16
10.	References and Supporting Documents	17
10.1	Applicable Legislation	17
10.2	Applicable Policy	17
11.	Privacy and Human Rights Consideration	17
12.	Definitions	18
13.	Revision History and Review	20

1. Purpose

Council is required under section 108 of the *Local Government Act 2020* (the **Act**) to prepare and adopt a Procurement Policy. In accordance with the Act, this Procurement Policy seeks to promote open and fair competition and Value for Money in respect of the purchase of Goods, Services and for carrying out of Works by Council. Council must review its Procurement Policy every 4 years.

1.1 Key outcomes

The purpose of this Procurement Policy is to:

- provide a framework that seeks to achieve best value through consistent, competitive and transparent processes;
- achieve compliance with relevant legislative requirements;
- establish a social procurement environment;
- minimise and manage risks in procurement;
- specify the overarching requirements, principles, policies and processes Council will follow when procuring Goods, Services or Works;
- prioritise, where practical, the procurement of locally sourced Goods, Services or Works and procurement of environmentally sustainable Goods, Services or Works;
- facilitates the efficient provision of goods, services and works to meet the needs of Council and the community; and
- give effect to the overarching governance principles of the Act.

1.2 Key principles

The key principles of the Procurement Policy are:

- **Value for Money** - provide a procurement framework for Council that achieves the best value mix of cost, quality, environmental responsibility, social responsibility and sustainability;
- **Open and fair competition** – ensuring that the market is given a fair opportunity to respond to invitations from Council to supply Goods, Services or Works to Council;
- **Probity** – demonstrate fairness, impartiality, transparency, accountability and confidentiality, and effectively manage any perceived or actual Conflict of Interest;
- **Efficiency** – minimise the cost of procurement activities to Council and participants without compromising quality or other procurement principles;
- **Continuous improvement** – promote continuous improvement and innovation in design and delivery of Goods, Services and Works;
- **Collaboration** – collaborate with other councils and relevant bodies where appropriate to share better practices and achieve Value for Money;
- **Risk management** – minimising and managing risk in procurement through ensuring issues are identified, mitigated and documented;
- **Compliance** – comply with relevant legislative requirements; and
- **Source and procure locally** – procure from local sources where appropriate whilst maintaining Value for Money and commitment to public benefit to increase social value.
- **Responsiveness and agility** – allows procurement to occur in a time efficient manner that does not impact the business of Council whilst also meeting legislative and transparency requirements.

2. Scope of Policy

A Council must comply with its Procurement Policy before entering into a contract for the purchase of Goods or Services or the carrying out of Works in accordance with section 109 of the Act. Accordingly, this policy applies to all procurement activities undertaken by Council and is binding upon Councillors, Council officers, Staff, contractors and consultants while engaged by Council.

3. Policy Statement

Council is committed to the effective procurement of Goods, Services and Works through adopting key principles and policies and identifying opportunities for collaborative and sustainable procurement. The adoption of these key principles and policies will support the achievement of Council's objectives in relation to sustainable and socially responsible procurement, support for the local economy and obtaining Value for Money. Achievement of these objectives will lead to better outcomes in the provision of services for the community.

Councillors, Council officers, Staff, contractors and consultants while engaged by Council are required to comply with this Procurement Policy.

4. Key Principles

4.1 Value for Money

The principle of Value for Money underpins all of Council's procurement functions. Council considers Value for Money to be the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. Value for Money also considers the total cost of procurement from planning to disposal and everything in between. This is commonly known as total cost of ownership.

Value for Money encompasses opportunities to deliver social and sustainable outcomes which provide meaningful benefits to the community.

Value for Money will be achieved by:

- developing, implementing and managing procurement frameworks that support the co-ordination and streamlining of activities throughout the lifecycle;
- development, implementation and management of a procurement strategy to encourage and facilitate procurement that supports and stimulates the local economy;
- determining opportunities where procurement can be improved to enable greater social and sustainable service delivery;
- effective use of competition between suppliers and contractors;
- identifying strategic opportunities to collaborate with and share arrangements or resources with other councils, bodies and government agencies where advantageous for Council;
- using aggregated contracts where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient procurement processes including appropriate use of e-solutions; and
- working with suppliers to create relationships that are professional and productive and adhere to the requirements of the relevant contract in place.

4.2 Accountability and Transparency

Accountability and transparency in procurement means being able to explain and provide evidence on the process followed to procure the Goods, Services or Works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Council conducts its procurement and contracting activities in a transparent manner which demonstrates probity and accountability. Council must not change the terms of a procurement process after the process is released to the market to maintain accountability and transparency of the procurement process, except where this Procurement Policy or the Procurement Procedure allows an adjustment or amendment of the particular procurement process.

All procurement activities undertaken by Council must be in accordance with the Act, the Procurement Policy, the Procurement Procedure, other relevant Council policies and all other legislative requirements.

4.3 Fair and Honest Dealings

Council is committed to providing equal opportunity for all businesses, to bid for work through open and transparent market processes. Impartiality is to be maintained by Council, the Council officers and other personnel involved in the procurement throughout the procurement process. This is to eliminate the prospect of any bias in decisions, to ensure Council decisions avoid public scrutiny and to ensure Council decisions are defensible.

4.4 Support for Local Content

Council will include in its Tender processes a mandatory weighting of five (5) percent for local content when engaging and contracting with suppliers, service providers and contractors. This weighting may be increased to 10% if the particular Tender process may benefit from the increased weighting for Local Content, and such increased weighting is approved by the relevant General Manager. This is to acknowledge the suppliers whose activities contribute to the economic and social wellbeing of the East Gippsland region.

This weighting may be removed in the event of a collaborative Tender where the evaluation criteria does not align with the requirements of other participants.

4.4.1 Local Jobs First

The *Local Jobs First Act 2003 (LJF Act)* applies to the full range of Victorian Government projects that meet financial thresholds, including for instance, all types of procurement for Goods, Services or Works.

Council must comply with the requirements of the LJF Act and the currently published Local Jobs First Policy when seeking the procurement of Goods, Services or Works over the thresholds (or below the thresholds if classified as an eligible project), and where that procurement has State Government funding.

Compliance with the LJF Act includes process and reporting requirements.

A Local Jobs First **standard project** is a project:

- with a budget of \$1 million or more in rural and regional Victoria;
- with a budget of \$3 million or more for state-wide projects or for projects in metropolitan Melbourne; or
- declared to be a standard project by the Minister under section 7A(1) of the LJF Act.

A Local Jobs First **strategic project** is a project:

- with a budget of \$50 million or more; or
- any other project declared to be a Strategic Project by the Minister under section 7A(2) of the LJJ Act.

The requirements differ for each type of project and should be managed in accordance with the Procurement Procedure if the procurement meets any of these requirements.

4.5 Support for Sustainability, Sustainable Procurement and Environment

Sustainable procurement aims to reduce the adverse impacts of purchased goods, services and works on our environment locally, nationally and globally. This includes considerations such as planning for the future climate, reducing carbon emissions, minimising resource wastage, and the cost of construction, operations and maintenance over the life of goods, services and works.

In line with Climate Change requirements, Council will consider sustainability during the specification of the goods or service required and will expect tenderers to respond to this requirement to demonstrate how delivery will meet this requirement.

Council will include in its Tender processes a mandatory weighting of five (5) percent for sustainability when engaging and contracting with suppliers, service providers and contractors. This weighting may be increased to 10% if the particular Tender process may benefit from the increased weighting for sustainability. Increased weighting will be approved by the relevant General Manager.

Council officers must consider and investigate opportunities in procurement activities which seek to maximise the environmental and whole-of-life sustainability of the Goods, Services or Works being procured and minimise the impact of the procurement on the environment.

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;
- examining anticipated organisational, project and/or community needs;
- applying a price or evaluation score preference (when it is determined to be appropriate) to quotations and Tenders received from an Indigenous Business;
- applying a price or evaluation score preference (when it is determined to be appropriate) to quotations and Tenders received from any businesses that demonstrates other desirable sustainability practices and outcomes;
- continually improving sustainability specifications, practices and outcomes; and
- planning and undertaking sustainability evaluations as part of contracting activities.

4.6 Circular Economy and Circular Procurement

The objective of a circular economy is to maximise value at each point in a product's life. The circular economy is an alternative to the traditional linear model, where the goal is to keep resources in use for as long as possible, extract the maximum value from them whilst in use, then recover and regenerate products and materials at the end of each service life. A circular economy seeks to eliminate waste and to keep resources in a continually flowing loop.

Council is committed to minimising waste of resources and maximising value retention of resources and materials in its procurement processes.

Council will consider at all stages of the procurement process whether the Goods, Services or Works can be re-used or re-purposed at end-of-life and that the procurement properly considers the opportunity to maximise the options for recycling or utilising components to ensure the benefit of circular procurement can be realised.

4.7 Social Procurement

Social procurement aims to ensure Value for Money considerations are not solely focused on price but encompass opportunities to deliver social and sustainable outcomes that benefit the Council's local community.

Council aims to incorporate "social benefits" into this Procurement Policy and all procurement documentation (e.g. request for tender, request for quote, procurement plans, evaluation plans, risk management plans) to ensure that social procurement activities are embedded, integrated and implemented across all of Council's procurement activities.

Such social procurement principles will be used to embed aboriginal participation in project delivery where possible and practical; support for social enterprises; and support for procurement of works, services and goods in a manner that supports the communities of East Gippsland.

5. Risk Management

5.1 General

Appropriate risk management is to be applied at all stages of procurement activities. This must be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of Goods, Services or Works. Council's risk exposure will be minimised by measures such as:

- standardisation of contracts including necessary and relevant clauses;
- requiring security deposits where appropriate;
- referring specifications to relevant experts (including external experts where it is appropriate to do so);
- requiring contracts be fully executed before acceptance of the Goods or prior to the commencement of the Services or Works; and
- incorporating relevant Australian Standards (or equivalent) or best practice guidelines.

5.2 Probity

Where procurement activities are Strategic Procurement or sensitive in nature, or of significant value (of \$2,000,000 or above), where there is an In-house Bid, a conflict or other situation that could compromise the integrity of the process, an external probity advisor or a probity auditor should be engaged by Council.

Probity Auditors

A probity auditor's role is to focus on compliance to procurement processes according to the procurement requirements, set criteria, standards or principles, to ensure adherence to Council's policies and rules and to provide appropriate sign-off for Council at completion of the procurement process (and/or designated milestones).

Probity auditors must be engaged in accordance with the Procurement Procedure.

Probity Advisor

A probity advisor's role is to observe the procurement process, provide the Procurement Team, the Procurement Coordinator and Tender Evaluation Panel, with independent advice and guidance on probity issues throughout the procurement process and to provide a probity report at conclusion of the procurement process as to probity of the process, whether the recommendations of the Tender Evaluation Panel are consistent with the evaluation, if there is any impediment for Council acting on the recommendations and provide confirmation that the Tender Evaluation report reflects the evaluation.

Probity advisors must be engaged in accordance with the Procurement Procedure.

5.3 Insurance Requirements

In order to minimise Council's risk exposure, Council will ensure that engaged suppliers, contractors and consultants have appropriate insurances in place and that the insurance remains valid throughout the entire life of awarded contracts, including any defects liability period for the Goods, Services or Works.

Council will maintain a register of suppliers', contractors' and consultants' insurance details in a manner that will ensure that certificates can be easily reviewed for currency and for updates to be requested as required.

5.4 Competition and Consumer Act Compliance

Council will comply with the *Competition and Consumer Act 2010* and other fair-trading legislation applicable to its operations. Council is committed to the public policy goals embodied by these laws, which include the protection and promotion of competition.

Council is committed to ensuring Staff are informed of their obligations arising under competition and consumer legislation, and to not allow the following to occur:

- restrictive trade practices (including price fixing and exclusionary provisions relating to a division of territories);
- market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power;
- inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- unconscionable and / or unfair business practices.

Where it is found that Council has breached the *Competition and Consumer Act 2010* or been involved in the practices described above, Council and the Councillors, Council officers or Council Staff involved in the breach or practices may be subject to disciplinary action and/or prosecution under the *Competition and Consumer Act 2010*, *Local Government Act 2020* or other legislation.

Where a decision of Council to award a contract does not follow the recommendation of the Tender Evaluation Panel, Council exposes itself to risk of liability for failing to comply with probity principles in conducting its procurement processes.

5.5 Gifts, Benefits and Hospitality

Councillors and Council officers must not, either directly or indirectly, solicit or accept gifts, benefits or hospitality from any member of the public where:

- it is made during a procurement or Tender process by a person or organisation involved in, or with an interest in, the process;
- acceptance could be perceived as endorsement of Goods, Services or Works; or
- acceptance could be seen to advantage the member of the public in future procurement decisions.

Council's Gifts Benefits and Hospitality Policies further set out Councillors and Council officers' obligations in respect of gifts, benefits and hospitality.

5.6 Fraud and Corruption Control

Council takes allegations of fraudulent activity and corrupt conduct seriously. Council is committed to preventing, deterring and reporting corrupt and fraudulent behaviour. Council has developed a Fraud and Corruption Control Policy which provides a framework for preventing the risk of fraud and strengthening organisational integrity.

Complaints of improper conduct and behaviour of Councillors and Council officers will be managed in accordance with Council's Public Interest Disclosure Policy.

5.7 Disclosure of Information

The commercial interests of existing and potential suppliers must be protected. Confidentiality of information provided by existing and prospective suppliers must be maintained, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing, intellectual property and product information.

At no stage should Councillors or Council officers have discussions with potential suppliers about active procurements prior to the approval process being finalised and the contract being awarded (other than authorised procurement negotiations undertaken by the appointed Tender Evaluation Panel). Councillors and Council officers should take care that their duty to consider issues fairly and properly is not compromised by participating in discussions with suppliers where the intent of the supplier is to influence the decision-making of a Councillor or Council officer in procurement related matters.

5.8 Conduct of Councillors and Council officers throughout the Procurement Process

5.8.1 Involvement in the procurement process

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract. The exclusion of Councillors from participation in procurement processes is to safeguard the integrity of the process and ensure that the evaluation of Tenders is separate from the ultimate decision making and award process. It is also essential to avoid the perception that those involved in the evaluation of Tenders can be influenced by the involvement of Councillors.

Councillors having involvement in the procurement process is contrary to a Councillor's function under the Act, as a Councillor is charged with the task of participating in the decision making of Council (section 28 of the Act) whereas the Chief Executive Officer and Council Staff are charged with the task of carrying out the day-to-day operations of Council (section 46 of the Act). If Councillors were to participate in the procurement process this would create a Conflict of Interest when the Councillor was ultimately required to perform their decision-making function in approving a contract at the conclusion of the procurement process.

5.8.2 Conduct of Council officers and Councillors

Council officers and Councillors must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with Part 6 of the Act, Councillors and Council officers have an overriding responsibility to act properly, impartially and with integrity, avoiding Conflicts of Interest and misuse of their position.

Council officers and Councillors, must:

- not misuse their position to gain, or attempt to gain, any advantage for themselves or any other person or any detriment to Council or another person;
- not use public funds or resources in a manner which is unauthorised;
- at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;
- not participate in any action or matter associated with the arrangement of a Tender or contract (i.e., evaluation, negotiation, recommendation or approval) where that person has a Conflict of Interest;
- not intentionally, or recklessly disclose information which is confidential, or which the person should reasonably know is confidential;
- on becoming aware of a Conflict of Interest, promptly declare the Conflict of Interest in accordance with the Governance Rules. If Council officers have a Conflict of Interest, the conflict must be disclosed to the Procurement Team and that Council officer must exclude themselves from any decision-making process or any action in relation to that matter (in addition to any other requirements);
- in the case of Councillors declaring a Conflict of Interest, the conflict must be declared to the Mayor or the Committee Chair, depending on whether the matter is to be considered by Council or an Assembly of Councillors, as well as the Chief Executive Officer; and
- treat potential and existing suppliers with equality and fairness.

5.8.3 Determining the award of a contract

Councillors (where the procurement requires a resolution of Council) and the Chief Executive Officer (where the procurement requires approval of the Chief Executive Officer under their financial delegation) must act on the recommendation of the Tender Evaluation Panel unless:

- there is insufficient Council budget for the relevant procurement;
- State or Commonwealth government policy or legislative requirements have changed which means the relevant procurement is no longer in the best interests of Council;
- Council decides not to proceed with the project for reasons unrelated to the procurement process which means the relevant procurement is no longer in the best interests of the Council.

The above provisions are in place to protect Council from breaching the key principles of the Act, this Procurement Policy, competition and consumer laws, other legislative requirements, probity principles and to ensure compliance with Council's internal governance requirements and risk management. More generally, as the Chief Executive Officer or Councillors are not involved in the evaluation process, a significant probity issue arises if an award is made contrary to a recommendation. This may be evidence of a breach of fairness or a failure to comply with the process terms.

5.9 Auditing and Compliance

Compliance auditing determines whether a procurement process has or has not been followed in accordance with this Procurement Policy.

The Procurement Team will undertake audits to determine the level of compliance across the organisation, as appropriate.

6. Procurement Planning and Methods

6.1 Determining the appropriate method of Procurement

Council's standard methods for purchasing Goods, Services and Works are:

- **Credit Card** - using Council's corporate credit card;
- **Purchase Order** - following a quotation process undertaken with suppliers for Goods, Services or Works that represents Value for Money under directed quotation thresholds (refer to section 7.3 for more information);
- **Contract** - under contract following a request for quotation or request for Tender process; or

Aggregated purchase arrangement - using aggregated purchasing arrangements with other councils or bodies such as MAV Procurement, Procurement Australia, Victorian Government (e.g. State Purchasing Contracts, Whole of Government Contracts); and Commonwealth Government (e.g. Federal Purchasing Contracts). However, Council may also utilise alternative methods of procurement such as collaborative tendering arrangements, direct approaches to other Councils, state or federal agencies, procurement auctions and other ways set out in this Procurement Policy to purchase Goods, Services or Works where the particular procurement may be suitable for an alternative arrangement and Council's policies and the key principles under this Procurement Policy are maintained.

6.2 Collaborative Tendering

Council is committed to identifying and pursuing opportunities for collaboration with the Municipal Association of Victoria (MAV), Procurement Australia (PA), other local governments, State Government departments and other public bodies to maximise Value for Money and achieve Council's objectives.

Collaborative approaches to procurement may include joint tendering or partnership approaches, depending on the complexity, value and risk of the procurement. Value for Money and achievement of Council's objectives can be achieved through shared services and innovative procurement arrangements with these other parties to leverage the combined resources, market power and expertise of Council and other parties.

When developing a Procurement Conduct Plan (in accordance with the Procurement Procedure), Council officers must consider and set out any opportunities for collaborative arrangements with other local governments or government agencies (if appropriate for the particular procurement).

The Chief Executive Officer must ensure that any report to Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other councils or public bodies which may be available.

6.3 In-House Bids

Council is committed to the effective procurement of Goods, Services and Works, including the management of Council-owned and Council-managed assets, through adopting best practice principles, policies and procedures.

Council will ensure the procurement process is fair and consistent to all and will use its best endeavours to demonstrate its transparency to Invitees and potential Invitees, including In-House Bidders. Council must uphold the highest standards of probity and integrity to safeguard the procurement activities and ensure that all procurement processes are robust and can withstand scrutiny. This will be achieved by:

- maintaining an open and accountable procurement process ensuring all Invitees' information remains secure and confidential;
- giving clear notice to all Invitees whenever an In-House Bidder is participating in a procurement process;
- applying the same conditions for each Invitee, whether they are external or in-house;
- ensuring the requirements and expected outcomes are clearly specified in the procurement documentation to allow Invitees to accurately provide their substantive responses and prices;
- packaging requests to meet the requirements of relevant regulations and ethical obligations and to encourage competition to achieve the best outcome for Council and the community; and
- identifying and managing all Conflicts of Interest.

As part of any procurement process involving In-House Bids, Council must ensure that the In-House Bidder(s) submit all required information to enable Council to comply with the competitive neutrality principles (see section 10.4 of the Procurement Procedure).

Council or the Chief Executive Officer (depending on the appropriate financial delegation of the procurement) will only award the contract on the basis of best quality and Value for Money for the community and in line with the above core principles.

6.4 Internal Delivery of Service

Where Council has in-house capacity and skills, Council may determine that it would be in the best interest of the Community to deliver certain services or activities internally. Any determination as to whether it is in the best interest of the community will be undertaken in accordance with the principles identified in s106 of the *Local Government Act 2020* and the Victorian Competitive Neutrality Policy, as appropriate.

6.5 Procurement Auctions

Council may use an auction process as part of a procurement process.

A procurement auction is a process for approaching a competitive market to buy Goods, Services or Works or to sell or dispose of assets or other items.

Benefits of a procurement auction may include:

- cost savings through low prices;
- transparency, fairness, process credibility and accountability;
- increased supplier and bidder participation and competition due to perceptions of greater probity (as a result of the transparency of an open process where all participants are aware of the rules and the competitiveness of their bids);
- time savings (through a reduced negotiation phase);
- real time price feedback for participating suppliers and bidders;
- elimination of unconscious bias; and
- procurement cost efficiencies, particularly when used for frequent, repetitive buying or selling.

For purchasing processes, procurement auctions may be a suitable process to use where the Goods, Services or Works are of relatively low complexity or low risk or are routine or off-the-shelf type items which are readily available.

Buying and selling at auction does not reduce Council's obligations to comply with the core principles of this Procurement Policy, including all Value for Money and probity requirements. Council must take into account all relevant planning and market analysis before choosing an appropriate market approach and put in place all methods and processes for the auction process in order to maximise the opportunity to obtain Value for Money and ensure compliance with its Procurement Policy principles.

Procurement auctions should be considered in accordance with the Procurement Procedure.

6.6 Tender evaluation and evaluation criteria

A Tender Evaluation Panel will be established to evaluate each Tender submission against the specified evaluation criteria. Tender Evaluation Panels can include both internal and external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 persons which includes the chairperson.

External personnel can also be included in the procurement process in an advisory role and not sit on the Tender Evaluation Panel or may sit on the Tender Evaluation Panel where technical or professional experience is required for the appropriate evaluation of submissions. Engagement of external advisors must be approved by the relevant General Manager.

A detailed Tender Evaluation Plan shall be developed, approved and strictly adhered to by the Tender Evaluation Panel. This involves the establishment of detailed evaluation criteria and the application of a pre-approved and robust weighted scoring system.

The Tender Evaluation and Probity Plan should be completed and signed off prior to the Tender or quotation being issued to market.

All tender evaluation panel members must complete necessary declarations of no conflict of interest prior to receiving or evaluating any tenders.

Evaluation Criteria

Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money and complies with Council's key principles and objectives (in addition to other relevant criteria for the particular procurement):

- tendered price;
- mandatory compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- capacity of the tenderer to provide the Goods, Services or Works;
- capability of the tenderer to provide the Goods Services or Works;
- demonstration of sustainability;
- social procurement (including supporting Indigenous Business);
- environment;
- Local Content; and
- Other specialised criteria may also be used from time to time, depending on the goods, service or works being sought.

7. Procurement Thresholds and Delegations

7.1 Financial Delegations and Authorisations

Delegations define the limitations within which individual Council officers are permitted to work. Delegation of procurement authority allows specified Council officers to approve certain purchases, quotations, Tender and contractual processes without referral to Council. This enables the organisation to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity.

The following table provides the current Financial Delegation Levels which apply for all procurement activities, including for the procurement of Goods, Services or Works.

Delegate	Total Procurement Value
Resolution of Council (awarded at Ordinary Council Meeting)	More than \$500,000 (including GST)
Chief Executive Officer	Up to \$500,000 (including GST)
General Managers, Manager Assets and Projects, Manager Works	Up to \$100,000 (including GST)
All other managers, Senior Works Coordinator, Works Engineer, Assets Engineer	Up to \$75,000 (including GST)
Coordinators, Essential Safety Measures Officer and Staff member appointed to manage a project	Up to \$50,000 (including GST)
Supervisors	Up to \$10,000 (including GST)
All other Staff	Up to \$2,000 (including GST)

7.2 Matters not Delegated to Council officers

Tender recommendations and contract approvals for all expenditure over \$500,000 (including GST) must be approved by Council.

7.3 Procurement Expenditure Thresholds

The below expenditure thresholds detail the market engagement and record keeping requirements which Council must comply with when procuring Goods, Services or Works. These requirements apply to all procurement activities unless an exemption applies (in accordance with section 7.4). The below thresholds and related exemptions also apply to collaborative procurements.

Procurement Value (Including GST)	Market Engagement Minimum Requirement - (*exemptions apply)	Council Contract Required?	Record Keeping Requirements (<i>Council Use Only</i>)
\$0 to \$5,000	One (1) verbal quote	Not required	A note must be attached to the Purchase Order in the Finance system providing details of the verbal quote received.
\$5,001 to \$50,000	Two (2) written quotes	Not Required	Written Quote Forms must be stored in the finance system.
\$50,001 to \$150,000	Three (3) written quotes	Not required	Along with the written quotes received, a Council Quote Form must be stored in the financial system if the minimum number of quotes have not been obtained (or due to a valid exemption) or the lowest priced quote has not been accepted.
\$150,001 to \$300,000	Public Request for Quote (RFQ) (In partnership with the Procurement Team)	Required	In accordance with this Procurement Policy and the Procurement Procedure.
More than \$300,000	Public Request for Tender (RFT) (In partnership with the Procurement Team)	Required	In accordance with this Procurement Policy and Procurement Procedure.

**Council and Council officers and Staff must also comply with Council's Credit Card Procedure for all procurements where a credit card purchase is appropriate.*

7.4 Exemptions from Procurement Expenditure Thresholds

An exemption to the procurement levels and market engagement requirements detailed in section 7.3 above may be sought and given under the following circumstances:

- **Policy Exemption** - where a policy exemption exists and is approved;
 - **Council or CEO approved Exemption** – where Council or the Chief Executive Officer approves an exemption from market engagement requirements (see section 13.2 of the Procurement Procedure); following the tender or procurement process would mean substantial delay or would be impractical, disadvantageous or unreasonable in the circumstances; or
 - directly approaching or contracting with another council, state or federal agency or company represents best Value for Money or would better achieve Council's key principles and objectives.
- **Emergencies** - in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence (see also section 13.3 of the Procurement Procedure);
- **Collaborative Arrangements** - where a competitive process has been undertaken as part of a collaborative procurement arrangement (including through third party organisations e.g, MAV Procurement, Procurement Australia or State Government);
- **Specific Goods, Services or Works required** - situations where a change in supplier would necessitate the procurement of Goods, Services or Works that do not meet the requirements of Council for interoperability or interchangeability (such as renewal of software licences, the upgrade of existing systems or for maintenance and support of those current systems);
- **Professional Services Contracts** – for the procurement of legal services;
- **Statutory compulsory insurance** – where Council must take out specific insurance requirements specified by law or other instrument (e.g. WorkCover);
- **Absence of competition** - where there is an absence of competition for technical reasons, for example, one supplier having legal ownership of design or intellectual property or there being only one possible or suitable supplier of the relevant Goods, Services or Works (evidence of this must be provided to the Procurement Team prior to awarding a contract on this basis) and the contract must be approved by the Chief Executive Officer or Council;
- **Extension of contracts while at market** - extension of contracts is required while Council is at market (see section 13.4 of the Procurement Procedure); or
- **Exempt Procurement** - where the procurement is identified on Council's Policy Exemptions List including (see section 13.1 of the Procurement Procedure):
 - **Panel Arrangements;**
 - **Council or CEO approved Exemption;**
 - **Emergencies;**
 - **Agency Contracts;**
 - **specific goods, services or works required;**
 - **professional services contracts;**
 - **statutory compulsory insurance;**
 - **absence of competition;**
 - **extension of contracts while at market;** and
 - **Exempt Procurement** where the procurement is identified on Council's Procurement Exemptions List.

Exemptions may only be granted where they have been approved by the Chief Executive Officer (for procurements up to \$500,000 inc. GST) or Council (for procurements above \$500,000 inc. GST) in accordance with section 13.1 of the Procurement Procedure.

7.5 Contract Variations

Contract variations are variations to awarded contracts which increase the overall value of the contract. Contract variations may occur where:

- the specifications for Goods or scope of the Services or Works changes after the contract is awarded;
- the timing for the delivery or installation of Goods or performance of Services or Works changes;
- Council requires changes to the Goods, Services or Works; or
- Council exercises an additional option or ability under the relevant contract which increases the time before completion of the contract or overall value of the contract.

Contract variations are subject to the financial delegation thresholds specified in the Procurement Procedure and must be dealt with in accordance with the Procurement Procedure.

Unless a variation to the contract falls within the original procurement financial delegation threshold (in which case the officer with the relevant delegation may approve the variation under their delegation), contract variations must be approved by the Chief Executive Officer where the variation causes the original contract value to increase above \$150,000 inc. GST or more.

Contract variations must be approved by Council where:

- the variation causes an increase to the original contract value of a Contract originally awarded by resolution of Council of 20% or more; or
- the contract was awarded under delegation and the variation would result in a total contract value greater than \$500,000 inc. GST.

The above thresholds for variations apply cumulatively over the life of the contract. Examples of how contract variations should be approved are contained in the Procurement Procedure. All variations to contracts will also require an amended Purchase Order be submitted and approved through Council's finance system.

Where a contract variation pushes the procurement process from verbal quotes to written quotes or alters the number of written quotes that should have been required but is still under the total value for which CEO approval is required, General Manager approval is required to proceed with the variation.

8. Administrative Updates

From time-to-time circumstances may change, leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.

Administrative changes include updating to the latest style or template for policy, change to the name of Council directorate or business unit, change to the name of responsible person or position title, change to operational delegations, change to State or Federal department or minor update to legislation which does not have a material impact such as the section or definition changes in the Act.

9. Roles and Responsibilities

9.1 Responsibilities of the Procurement Team

The Procurement Team will assist Council officers to obtain Goods, Services and Works using the most appropriate purchasing method.

This includes:

- assisting with the development, implementation and management of a procurement strategy;
- providing assistance and advice regarding Council's procurement procedures and delegations;
- developing appropriate documents and forms to be used in the procurement process;
- educating internal and external stakeholders on Council's Procurement Policy and procurement procedures; and
- managing and coordinating Council's procurement processes.

9.2 Management roles and responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of this policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensuring the overall organisational compliance with this Procurement Policy.
General Managers	Ensuring compliance with this Procurement Policy by all Council officers under their supervision.
General Manager Business Excellence	Holds overall responsibility for this Procurement Policy implementation and compliance.
Manager Governance	Responsible for reviewing, updating and implementing policy. Together with the Procurement Team, they are the primary source for procurement advice, training and guidance.
Managers	Ensuring compliance with the Procurement Policy by all Council officers under their supervision.
All staff	Ensure compliance with the Procurement Policy at all times.

10. References and Supporting Documents

10.1 Applicable Legislation

This policy is made under section 108 of the Act. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria.

The policy should be read in conjunction with the following:

- *Local Government Act 2020*;
- *Privacy Act 1988*;
- *Competition and Consumer Act 2010*;
- *Victorian Competitive Neutrality Policy*;
- *Security of Payments Act 2002*; and
- *Local Jobs First Act 2003*.

10.2 Applicable Policy

- Credit Card Procedure;
- Cash Handling Policy;
- Councillor Code of Conduct;
- Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer;
- Fraud and Corruption Control Policy;
- Access to Information (Records) Policy;
- Risk Management Policy;
- Staff Code of Conduct; and
- Councillor Code of Conduct.

11. Privacy and Human Rights Consideration

All personal information collected by Council in connection with procurement activities will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of investigating procurement matters.

The Procurement Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human *Rights and Responsibilities Act 2006*. Please refer to www.humanrightscommission.vic.gov.au for assistance with this section.

12. Definitions

Term	Meaning
Act	The <i>Local Government Act 2020</i> .
Conflict of Interest	Means a <i>general conflict of interest</i> or <i>material conflict of interest</i> , as defined by sections 127 and 128 of the Act.
Council	East Gippsland Shire Council.
Council officer	A current member of East Gippsland Shire Council Staff with the authority to engage in activities on behalf of Council.
Councillor	Person who has been elected to the office of 'councillor' of East Gippsland Shire Council.
Emergency	Means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including but not limited to: (a) an earthquake, flood, wind-storm or other natural event; (b) a fire; (c) an explosion; (d) a road accident or any other accident; (e) a plague, epidemic, pandemic or contamination; (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; (g) a hi-jack, siege or riot; or (h) a disruption to an essential service for example, waste, transport and road access.
Goods, Services or Works	The relevant deliverable(s) the preferred Invitee will be required to provide to Council, once the conditions of contract have been agreed between the preferred Invitee and Council.
Indigenous Business	An Indigenous Business is one that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s) (consistent with Supply Nation's definition) or employees indigenous persons.
In-House Bid	A Tender, quote or other requested submission to Council from an In-House Bidder for consideration as part of a procurement process.
In-House Bidder	A person or group within Council who submit a Tender, quote or other requested submission to Council for consideration as part of a procurement process.

Term	Meaning
Invitee	A company, person or entity (including representatives) which submits a Tender, a quote or other requested submission to Council as part of a procurement process; and includes, where the context permits, prospective Invitees and other recipients of the request for Tender, request for quote or other request (as applicable).
Local Content	Defined as labour, materials, plant and supervision which are sourced from within the East Gippsland Shire region.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors and volunteers.
Strategic Procurement	Means a procurement process in which the relevant General Manager and the Procurement Team approve a procurement strategy which does not accord strictly with the Procurement Policy and Procurement Procedure in order for Council to realise Value for Money, innovation or another beneficial opportunity which could not be realised by adhering strictly with the Procurement Policy and Procurement Procedure.
Tender	An offer in writing as part of the Tender process to supply Goods, Services or Works, usually submitted in response to an invitation such as a request for Tender. For the purpose of this Procurement Policy, reference to a Tender also includes quotations or other documents submitted in response to an invitation from Council to bid to supply Goods, Services or Works.
Value for Money	The achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a balanced judgement of financial and non-financial factors relevant to the procurement.

13. Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Council / Management	ECM Document Reference	Summary of Changes
1	Approved	06/10/09	Council	4350630	
2	Approved	05/06/12	Council	4858155	
3	Approved	19/11/13	Council	5523287	
4	Amended/Approved	16/12/14	Council	6050822	
5	Approved	15/12/15	Council	6553548	
6	Approved	13/12/16	Council	7012421	
7	Approved	12/12/17	Council	7441835	Update to market engagement method table, procurement and variation thresholds. Inclusion of Multiuser List clause. Removal of Purchase card procurement method.
8	Approved	13/11/18	Council	7824121	Full rewrite of policy.
9	Approved	23/06/20	Council		Minor revisions to record keeping requirements, inclusion of insurance requirements, removal of Supplier Register, minor revision to Support for Local Content, inclusion of Support for Sustainability and Environment, minor revisions due to changes in organisational structure.
10	Approved	14/09/21	Council		Complete rewrite of the Procurement Policy to align with the <i>Local Government Act 2020</i> . Revisions to procurement thresholds and requirements including the introduction of a Strategic Procurement framework.