



## COUNCIL POLICY

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## 1. INTRODUCTION

### 1.1. Purpose

Colac Otway Shire Council's procurement framework, which covers contracting, purchasing and contract management activities, is designed to support the achievement of Council's strategic aims and objectives as outlined in the Council Plan –2017-2021.

This policy establishes the procurement framework by providing guidance, governance and clarity on the principles, practices and processes to be applied to all of Council's procurement activities.

### 1.2. Scope

This Procurement Policy is made under Section 186A of the Local Government Act 1989. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria. Section 186A of the Act requires the 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 the Council.

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors and Council Staff.

The Act, the Procurement Policy and associated procedures of Council are the primary reference points for how all procurement should be performed.

### 1.3. Definitions

The following definitions apply to terminology used throughout this Policy.

Term	Definition
Act	Local Government Act 1989 (as amended).
Best and Final Offer (BAFO)	A process that is utilised during a tender process which allows Council to invite shortlisted tenderers to submit their best and last technical and priced offer on the basis of the tender requirements. This process is designed to further assist in the demonstration of achieving the value for money principles.
Category Management	The strategic, proactive and organisational approach to the end-to-end procurement of specific categories of organisational spend.
Commercial in Confidence	Information that, if released, may prejudice the business dealings of the party (e.g. discounts, rebates, profits, methodologies and process information). It is information provided for a specific purpose that is not to be used for any other purpose than set out in the initial document.
Contract Management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff	Includes full-time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.
Conflict of Interest	Refer to section 77A of the Act.
Delegation	A power handed down by the Council or Chief Executive in an instrument to enable a delegate to act on Council's behalf.

Emergency	Sudden or unexpected occurrence requiring immediate action.
Environmental Sustainability	Ensuring immediate organisational needs are met whilst taking into account the needs of future generations.
e-Procurement	The use of electronic systems to acquire goods, services and works.
Ethics	The moral principles or values that guide practitioners in all aspects of procurement.
Expression of Interest (EOI)	An invitation for persons to submit an EOI for the provision of the goods, services and works which generally set out in the overview of requirements contained in the document. This invitation is not an offer or a contract.
MAV LEAP Program	A procurement continuous improvement program designed to assist organisations, regions and sectors to: <ul style="list-style-type: none"> <li>▪ Achieve and demonstrate sustainable savings and value for money;</li> <li>▪ Support local and regional economic development and other triple bottom line objectives;</li> <li>▪ Identify and pursue shared services opportunities;</li> <li>▪ Improve probity management and compliance; and</li> <li>▪ Improve organisational and sector capability.</li> </ul>
Negotiation	The bargaining process between two or more parties. Each party has its own viewpoints and objectives, but seeks to reach an overall satisfactory arrangement.
Probity	Probity is uprightness, honesty, proper and ethical conduct and propriety in dealings. Within 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 the 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.
Probity Advisor	Commonly an observer in dealings with tenderers and the evaluation panel at presentations and interviews. The probity advisors would be available to answer questions and provide advice to the evaluation team.
Probity Auditor	Primarily reviews all processes and documentation throughout the procurement process and provides a report on their findings at the conclusion of the process.
Probity Plan	A document developed to ensure the key aspects of Probity in relation to the relevant procurement process are captured for evidentiary purposes.
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.
Purchase Order	The official Council order issued to enable payment through the Council’s Financial System.
Purchasing Card	Refers to Council’s Corporate Credit Card.
Request for Information (RFI)	Formal request for information to gain a more detailed understanding of the supplier market and the range of solutions and technologies that may be available. It may be used to develop documentation for a future tender.
Request for Quotation	The process of inviting parties to submit a quotation followed by evaluation of submissions and selection of a successful bidder or tenderer.
Social Procurement	Social Procurement uses procurement processes and purchasing power to generate positive social outcomes in

	addition to the delivery of efficient goods, services and works.
Standing Offer Arrangements (SOA)	A contract that sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
Supplier	The organisation named in the contract as the party responsible for the performance of the contractual obligations.
Sustainability	Activities that meet the needs for goods, works and services in a way that achieves value for money on a whole-of-life basis in terms of generating benefits not only to Council, but also to society and the economy, while minimising damage to the environment.
Tender Process	The process of inviting parties to submit a tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Thresholds	The value above which a procurement, unless exempt, is subject to the mandatory procurement processes.
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 contribution to the advancement of the business priorities, non-cost factors such as fitness for purpose, quality, service and support and 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.

#### 1.4. Treatment of GST

All monetary values stated in this policy include GST except, where specifically stated otherwise.

#### 1.5. References

Council's procurement activities shall be carried out in compliance with the following Council policies and procedures and associated legislation:

- Local Government Act 1989
- Occupational Health & Safety Act 2004
- Public Records Act 1973
- Independent Broad-based Anti-corruption Commission (IBAC) Act 2011
- Competition and Consumer Act 2010
- Victorian Charter of Human Rights and Responsibilities Act 2006
- Victorian Local Government Best Practice Procurement Guideline 2013
- Quotations, Tendering and Purchasing Procedure 2013
- Tendering Procedures 2017
- Tender Evaluation Panel Policy
- Council's Councillor and Staff Codes of Conduct
- Council's Policies including Risk Management, Fraud Prevention, Occupational Health and Safety, Confidential Information, Environmental Sustainability and Gifts, Benefits and Hospitality
- Council Plan 2017-2021
- Instrument of Delegation

Council acknowledges the MAV for the provision of the Model Procurement Policy and the Victorian Local Government Best Practice Procurement Guideline 2013 in the development of this policy.

## 2. POLICY PRINCIPLES

### 2.1. Guiding Principles

The following nine core guiding principles for procurement underpin all procurement activities undertaken by Council:



#### 2.1.1. Ethics

Council acknowledges the importance of ethics in procurement and is committed to ensuring ethical practices are promoted and maintained across all Council procurement activities.

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

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information;
- 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; and
- be able to account for all decisions and provide feedback on them.

##### 2.1.1.1. Conflicts of Interest

Councillors and Council Staff shall 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.

Councillors and Council Staff involved in the procurement process, in particular preparing tender documentation, including writing tender specifications, tender opening, and tender evaluation panels, must:

- **Avoid** conflicts, whether actual, potential or perceived, arising between their official duties and their private interests. Private interests include the

financial and other interests of Councillors and Council Staff, plus their relatives and close associates;

- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise Council Staff must make their manager, or the chairperson of the relevant tender evaluation panel aware and allow them to decide whether the officer should continue to be involved in the specific Procurement exercise; and
- **Observe** prevailing Council, and governmental, guidelines on how to prevent or deal with conflict of interest situations and not take advantage of any tender related information whether or not for personal gain.

#### **2.1.1.2. Gifts and Hospitality**

Councillors and Council Staff shall at all times ensure compliance with Council's Gifts, Benefits and Hospitality Policy including declaring and recording all gifts and hospitality that fall within the definition of gift/hospitality as described in the Policy.

#### **2.1.2. Value for Money**

Achieving best value for money shall be the basis of all procurement decisions within Council.

Council Staff are not required to accept the lowest tender. Instead, Council Staff are required to take into account issues of quality, cost, the accessibility of the service, contribution to the local economy and other relevant factors when assessing best value for money as part of their procurement activities.

#### **2.1.3. Competition**

Council's procurement processes have been designed to ensure the principle of competition is adequately addressed.

Council Staff shall ensure that a competitive marketplace is promoted by using the correct process for the particular procurement activity and ensuring that prospective suppliers are given an equal opportunity to participate in the process.

#### **2.1.4. Fairness to Suppliers**

Council acknowledges the importance of ensuring its procurement processes and practices promote positive supplier engagement.

Council Staff shall ensure that all prospective suppliers are treated fairly in an open and transparent manner and have access to the same information.

#### **2.1.5. Accountability**

Council will maintain consistency in the approach to procurement across the whole organisation through coherent frameworks, policies and procedures. All procurement decisions and actions shall be accountable, defensible and withstand scrutiny.

Council Staff shall be able to account for all procurement decisions made over the whole-of-life of all goods, services and works purchased with supporting, auditable documentation.

#### **2.1.6. Risk Management**

Council has a responsibility for ensuring that risk is adequately addressed in its procurement framework and processes and in line with Council's Risk Management Policy.

Council Staff shall appropriately apply risk management at all stages of their procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works. This risk management approach applies to Council's Occupational Health & Safety obligations and documented commitments.

#### **2.1.7. Transparency**

Council shall conduct its procurement processes in a fair, honest and open manner, with the highest levels of integrity and in the public interest.

Council Staff shall maintain key records of all procurement processes to be able to demonstrate transparency in their procurement decision making processes.

#### **2.1.8. Sustainable Procurement**

Council recognises it has an implicit role in furthering sustainability objectives, through its procurement of goods, services and works.

Council will maintain a procurement framework designed to support the achievement of value for money outcomes and facilitate opportunities to further organisational environmental, social and economic development objectives.

##### **2.1.8.1. Social Procurement**

Where applicable, Council Staff will be supported to use Council's procurement processes and purchasing power to generate positive social and economic outcomes for our community.

Council is committed to actively participate in the G21 Regional Opportunities for Work (GROW) Program and embed its principles into its procurement processes, and practices.

The GROW Program is a regional collective impact initiative which aims to address disadvantage in the region, including a targeted approach to Colac, by generating jobs growth through procurement and investment.

##### **2.1.8.2. Environmental Sustainability**

Where applicable, Council Staff shall consider the following environmental principles as part of their procurement activity:

- REFUSE – Choose not to purchase a product/service.
- REDUCE – Choose to purchase less of a given product/service.
- REUSE – Purchase a product of extended life or of multiple uses.
- RECYCLE – Purchase a product that contains amounts of non-virgin materials.
- REPLACE – Choose to replace or offset the resources purchased in a product.



### 2.1.8.3. Local Business Support

#### 2.1.8.3.1. Local Business Support

Council is committed to buying from local businesses where such purchases may be justified on Value for Money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

Council has established a targeted local business support program designed to increase the participation and facilitate the growth of local businesses through its procurement activities. Council will monitor and review this program on a regular basis to ensure the program is achieving its stated aim of increasing Council's economic contribution to the Colac Otway Shire municipality.

With the exception of contracts that are the subject of a public tender, in every instance where it is reasonable to do so, Council officers shall seek at least one quote from a local business.

For contracts that are assessed against weighted evaluation criteria (including all public tenders and purchases with a value of \$50,000 or greater) a 5% weighting for economic contribution to Colac Otway Shire shall be applied. Tenderers shall be scored for economic contribution to Colac Otway Shire by using the following table:

Economic Contribution to Colac Otway Shire (5%)		Points (Total 100)
Business Locale	Registered Main Office within COS Registered Main Office outside COS	50 pts 0 pts
Local Goods/Services	Assessed based on what Goods, Services, Works are procured locally (ie, within Colac Otway Shire) and what value percentage of the contract they represent	Up to 50 pts

In instances where a tenderer obtains the highest score in an evaluation assessment due to its economic contribution to Colac Otway Shire, it may only be awarded the contract if its tender price is within 2% of the next highest scoring tender up to a maximum \$50,000 differential.

Council shall ensure tenderers accurately represent their economic contribution to Colac Otway Shire by auditing contracts with a value greater than \$250,000.

#### 2.1.8.3.2. Light Fleet Vehicle Purchases

All Council light vehicles purchased where possible should be purchased locally and be subject to pricing in accordance with the state government fleet procurement contracts.

### 2.1.9. Confidentiality

Councillors and Council Staff are required to adhere to the Confidential Information Policy.

Commercial in-confidence information received by Council shall not be disclosed and shall be stored in a secure location.

Councillors and Council Staff shall not release or discuss the following:

- information disclosed by organisations in tenders, quotations or during tender negotiations;
- all information that is Commercial in Confidence; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Tenderers are however advised that a report on a tender process may be presented at an open meeting of Council, and some information arising from the tender will be publicly available.

### **3. POLICY PROVISIONS**

#### **3.1. Standards**

Council procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act (where applicable),
- Colac Otway Shire Council policies,
- Colac Otway Shire Council procurement procedures,
- Victorian Local Government Best Practice Procurement Guidelines 2013, and
- Other relevant legislative requirements such as but not limited to the Competition and Consumer Act, Goods Act and the Environmental Protection Act.

#### **3.2. Internal Controls**

Council has installed and 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 and performance measurement including a regular internal auditing program targeted at key procurement processes.

#### **3.3. Responsible Financial Management**

The principle of responsible financial management shall be applied to all Council procurement activities.

Council Staff shall not authorise the expenditure of funds in excess of their financial delegations.

Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

#### **3.4. e-Procurement**

e-Procurement is integral to the overall development of procurement processes and practices.

By utilising e-procurement Council aims to:

- reduce transaction costs;

- achieve greater leverage;
- make processes more efficient;
- improve management information and visibility of spend;
- increasing control and consistency of processes; and
- improve spend compliance.

## **4. PROCUREMENT METHODS AND PROCESSES**

### **4.1. Procurement Methods**

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

- purchasing card, including credit and fuel cards;
- petty cash;
- purchase order following a Request for Quotation process;
- under contract following a Request for Quotation or Tender process;
- using aggregated purchasing arrangements with other Councils, MAV Procurement, Procurement Australia, Victorian Government, or other bodies; and
- other arrangements authorised by the Council or the Chief Executive on a needs basis as required by abnormal circumstances such as emergencies.

Council may, at their discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

Typically a multi-stage tender process may commence with a RFI / EOI stage followed by a tender process.

#### **4.1.1. Emergencies**

Council will enter into a contract, the value of which reaches the threshold amounts, for the provision of goods, services or works without first putting that contract to public tender, if it is resolved that the contract must be entered into because of an emergency.

#### **4.1.2. Ministerial Exemption**

The Minister for Local Government may exercise his or her discretionary power to approve an arrangement for the purposes of the Act, a contract that Council wishes to enter into without first exposing that contract to public tender. Ministerial exemptions will only be sought in exceptional circumstances.

### **4.2. Procurement Processes Overview**

Council's procurement processes are based on the principles listed above.

Further details of the procurement processes undertaken by Council are contained in Council's procurement procedures. Together with this policy, the procurement procedures provide the complete procurement framework applicable to all of Council's procurement activities.

All procurement processes shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

#### **4.2.1. Category Management**

Where applicable, Council will establish a Category Management approach to key categories of spend, bringing together expertise from across Council to identify and embed the most appropriate and effective category strategy in order to deliver on Council's objectives through contract arrangements.

#### **4.2.2. Negotiation**

In line with the Local Government Best Practice Procurement Guidelines 2013, Council reserves the right to conduct negotiations in its tender documentation in order to better meet / achieve its value for money objectives. This negotiation process may include undertaking a Best and Final Offer (BAFO) process.

#### **4.2.3. Contract Management**

Council shall establish an appropriate contract management framework to govern and guide its contract management activities.

Council will proactively manage key contracts with a nominated Council Staff member responsible for the delivery of the contracted goods, services or works to ensure the Council is best placed to achieve its contract objectives.

#### **4.2.4. Supplier Engagement and Management**

Council recognises that in order to achieve sustainable value, appropriate relationships must be developed and maintained with suppliers.

Council is committed to:

- managing existing suppliers, to ensure the benefits are delivered;
- developing new suppliers and improving the capability of existing suppliers where appropriate; and
- communicating to potential suppliers via its website.

Council will publish the name and price of successful contractors/suppliers on its website, after the contract has been awarded, unless there is a legal reason preventing Council from doing so

#### **4.2.5. Probity Management**

Council will consider the appointment of a probity advisor or probity auditor for tender requests based on the nature and complexity of the proposed procurement.

For tenders in excess of \$3M, or where a proposed contract is deemed particularly complex, high risk or controversial and requiring a high level of public confidence, a Probity Plan will be developed.

## **5. PROCUREMENT THRESHOLDS**

### **5.1. Minimum Spend Competition Thresholds**

Any Council procurement under the threshold must comply with the Council's own policy and procedures.

The following table summarises Council's thresholds:

Procurement Value (AU\$, excl. GST)	Procurement Process	Payment Method	Agreement Type	Documentation Requirements
<\$2,000	Seek a minimum of 1 Oral Quote	Petty Cash (\$50 limit)	Purchase Order Conditions	Record Quote/'s
\$2,000 - <\$10,000	Seek a minimum of 1 Written Quote	Purchase Card Purchase Order Payment w/out PO		
\$10,000 - \$50,000	Seek a minimum of 3 Written Quotes	Purchase Order	Purchase Order Conditions or Contract for Quote	Record Quotes & Delegate Approval for Quotes
\$50,000-\$135,000 (Goods/Services)	Seek a minimum of 3 Written Quotes or Tender Process			Contract for Tender
\$50,000-\$180,000 (Works)			Evaluation Report for Tender	
>\$135,000 (Goods/Services)	Tender Process		Contract	Evaluation Report
>\$180,000 (Works)				

Notes:

- Financial values are for the total estimated cost for the procurement.
- Requirements cannot be split to circumvent the above thresholds.
- Council Officers must follow the requirements set out in the table above.

The tender thresholds shall apply for two financial accounting periods.

However, should Council consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for Council, in consultation with senior management public tenders may be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

Council Staff may undertake purchasing arrangements under the tendering limits outside this procedure at the discretion of the relevant General Manager, if the following special circumstances apply:

- The goods, service or works are of an urgent nature;
- Only a limited number of Suppliers could perform or supply the goods, service or works due to the level of specialist expertise required;
- The works, goods or service are an extension of previously approved goods, service or works and the appropriate variation has been processed;
- The works, goods or service are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the goods, service or works are to be provided or undertaken;

- Where no quotes or tenders were submitted or no quotes or tenders were submitted that conform to the essential requirements of the specification document – in this instance direct contact with the supplier of choice may be appropriate;
- When there is an unforeseen need to alter the scope of the project in a minor way and the cost of obtaining further quotations or retendering will outweigh the potential benefits;
- Where there is a clearly defined and significant social or environmental benefit:
- When there are exceptionally advantageous time-limited conditions for Council including unusual disposals by suppliers, unsolicited innovative proposals, liquidation, bankruptcy or receivership all of which that are not routine purchases from regular suppliers; or
- Where the acquisition is of a cultural or artistic nature i.e. a live show or art piece.

## **6. DELEGATIONS OF AUTHORITY**

### **6.1. Requirement**

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 the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

### **6.2. Council Staff**

Council shall maintain a documented scheme of procurement delegations, identifying the Council Staff authorised to make such procurement commitments in respect of goods, services and works on behalf of the Council and their respective delegations contained in the procurement procedures.

### **6.3. Delegations reserved for Council**

Tender recommendations where the expenditure is over the Chief Executive's delegation of \$400,000 must be approved by Council.

## **7. POLICY GOVERNANCE**

### **7.1. Owner**

Manager, Governance & Customer Service.

### **7.2. Review**

Council endeavours to continually improve its procurement performance such that all relevant policies, guidance and training are continually reviewed and updated. The policy and associated procedures will be reviewed annually in accordance with Council's requirements under the Act.

### **7.3. Compliance Responsibility**

All Council Staff have the responsibility to comply with the provisions of this policy.

### **7.4. Performance Measures and Continuous Improvement**

Council shall establish appropriate performance measures and reporting systems which will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be agreed within the Council and performance against these targets will be measured and reviewed regularly to support continuous improvement.

The performance measurements developed will be used to:

- Highlight trend and exceptions where necessary to enhance performance.
- Improve the internal efficiency of the procurement process and where relevant the performance of suppliers.

As part of Council's commitment to continuous improvement in procurement, Council will participate in and deliver on its objectives through the MAV LEAP Program.

#### **7.5. Charter of Human Rights Compliance**

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2007).

Council is committed to consultation and cooperation between management and employees.