



ATTACHMENTS

**Under Separate Cover
Council Meeting**

6.00pm Tuesday 29 June 2021

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PROCUREMENT POLICY



Procurement Policy

Last updated June 2021

1. PURPOSE

1.1 The purpose of the Procurement Policy ('Policy') is to:

- Establish the principles, processes and procedures applying in respect of the purchase of goods and services by Golden Plains Shire Council ('Council'), including for the carrying out of works
- Promote open and fair competition and provide value for money for Council
- Establish the contract value above which Council must invite a tender or seek an expression of interest, and the conditions under which Council may purchase goods without inviting a public tender or expression of interest
- Establish the criteria to be used by Council to evaluate whether a proposed contract provides value for money
- Establish how Council will seek collaboration with other Councils and public bodies in the procurement of goods and services
- Describe the process to be undertaken in inviting a public tender or expression of interest
- Demonstrate the consideration of sustainability in procurement of goods, services and works with respect to social, economic and environmental factors; and
- Achieve compliance consistent with the requirements of S108 of the Act;

2. BACKGROUND

In accordance with the Local Government Act 2020 (Vic) ('the Act'), the Procurement Policy sets out the key principles and processes with the aim to promote open and fair competition and provide value for money (s.108(2) where applied to the purchases of Goods, Services and Works by Council.

Under section 108 of the Local Government Act 2020 (Vic) ('the Act') requires a Council to:

- Prepare, approve, publish and comply with a procurement policy encompassing principles, processes and procedures applied to all purchases of goods, services and works by the Council. Review its procurement policy at least once during each 4-year term of the Council; and establish the thresholds and processes for public procurements.

3. SCOPE

- 3.1 This Policy will apply to all Councillors, Council employees and all persons engaged in procurement on Council's behalf and they will be accountable for compliance with all relevant legislative requirements and requirements of this Policy.
- 3.2 This Policy applies to the purchase of all goods, services and works obtained and/or undertaken by Council.
- 3.3 This policy does not extend to related accounts payable processes.

4. POLICY STATEMENT

- 4.1 This Policy applies from when Council has identified a need for procurement of goods, services and works and it continues through to the delivery of goods or completion of works or services.
- 4.2 Employees engaged in any procurement activity must be able to demonstrate that they have complied with the Policy
- 4.3 Non-compliance with the Policy may result in a breach of legislative requirements and Council disciplinary actions may be imposed if you breach fraud, corruption, bribery or Australian Consumer Laws.

5. PROCUREMENT METHODOLOGY

- 5.1 The table below records a summary of the procedure for procurement at certain threshold levels including those for and the delegated authority to sign the Contracts on Council's behalf as follows:
- 5.2 *Note: Procurement may not be split to avoid procurement thresholds*

| Procurement Threshold (Inclusive of GST) | Procurement Methodology | Authority to Sign Contract/Agreement*** |
|--|--|--|
| \$0-\$5,500 | -Request at least one (1) verbal or written quote; <i>and</i> -Raise a Purchase Order | Not Applicable |
| \$5,501-\$33,000 | -Request a minimum two (2) written quotes from suitable suppliers or one (1) quote from Panel of Suppliers; <i>and</i> -Raise a Purchase Order | Not Applicable |
| \$33,001 - \$149,999 (Goods & Services) | - Request three (3) written quotes from identified suitable suppliers or two written quotes from a Panel of Suppliers | Chief Executive Officer |
| \$33,001 - \$199,999 (Construction Works) | - Raise a Purchase Order -A formal contract may be required | Or Director |
| \$150,000 or greater (Goods & Services) | Public tender process through Council's <i>e-Procure</i> portal Or Procure goods, services, or works under approved agents (<i>see clause 9 of this Policy</i>) - (If using a Panel, minimum three written quotes) | Chief Executive Officer (up to \$400,000) |
| \$200,000 - or greater (Construction Works) | And -A formal contract is required and a -Probity Plan may be required (<i>i.e. High Risk</i>) | |

NOTE: *** For guidance refer to Council's Delegations Register.

- 5.3 Council's standard methods of procurement incorporate:
- Procurement Credit Cards and Petty Cash (see clauses 18 and 19);
 - Purchase Order following a Request for Quotation process (see clause 6);
 - Contract following a public tender process (see clauses 7); and
 - Contract entered under the Collaborative Procurement Arrangement (see clause 9 and Council's 'Exemptions from the Request for Tender and Request for Quotation Process' procedure.)
-

**6. PROCUREMENT UNDER \$150,000 FOR GOODS OR SERVICES
(UNDER \$200,000 FOR CONSTRUCTION WORKS)**

- 6.1 For all procurements under this heading Council is required to follow a Request for Quotation (RFQ) process as follows:

- Procurements with a value up to \$5,500 should be made after requesting at a minimum one (1) verbal quotation;
- Procurements with a value between \$5,501 to \$33,000 should be made after requesting at a minimum two (2) written quotations from suitable supplier or (1) quote from Panel of Suppliers
- Procurements with a value between \$33,001 to \$149,999 should be made after requesting at a minimum three (3) written quotations from a suitable supplier or (2) quotes from Panel of Suppliers.

- 6.2 At the Chief Executive Officer or his or her delegate's discretion a public tender process may be used for values less than \$149,999 if this process will serve Council's best interests and provide a better outcome.

All values are inclusive of GST.

**7. PROCUREMENT EQUAL TO OR GREATER THAN \$150,000 FOR GOODS OR
SERVICES (EQUAL TO OR GREATER THAN \$200,000 FOR CONSTRUCTION WORK)**

- 7.1 For all procurements equal to or greater than \$150,000 for the whole term of the contract must be;

- a. undertaken by public tender process in compliance with the Act and this Policy;

OR

- b. a public tender process is not required if the contract is procured in the following circumstances:

- i. procured where Council has resolved that the contract must be entered into because of an emergency;
- ii. procured under approved collaborative arrangements, as stated under clause 9 of this Policy and the Act;
- or
- iii. the contract is a type of contract that has been exempted by regulation.

- 7.2 All procurements under this clause (7) must be processed through the procurement team or in consultation with the procurement team.

8. EXPRESSIONS OF INTEREST

- 8.1 At the discretion of the Chief Executive Officer or his or her delegate, Council may determine to seek expressions of interest where:
- a. there are likely to be many tenderers;
 - b. the tendering process will be costly, or procurement is complex and Council does not wish to impose the costs of preparing full tenders on all tenderers;
 - c. there is uncertainty as to the willingness and/or interest of parties or suppliers to offer the potential goods or services or to undertake the proposed works;
 - d. Council seeks advice from the market about how best procure the goods, services or works.

9. APPROVED ARRANGEMENTS

- 9.1 Council may procure goods, services or works without undertaking public tender process through collaborative arrangements, government or nominated agents:
- a. Municipal Association of Victoria Procurement (MAV Procurement);
 - b. Construction Supplier Register (CSR) which is a pre-qualification scheme for building and construction industry contractors and consultants;
 - c. Procurement Australia;
 - d. State Purchase Contracts (SPCs), Whole of Victorian Government Contracts (WoVGs)
 - e. e-Services Register (pre-qualified ITC suppliers)
 - f. Council acting as agent- Council may procure goods, services or works with a council acting as the agent for a group of Councils provided that the agent Council complies with the requirements of the Act.
- 9.2 Council employees must ensure that they follow a process, where applicable, required by the bodies outlined in clause 9.

10. EXEMPTIONS FROM THE REQUEST FOR PUBLIC TENDER AND REQUEST FOR QUOTATION PROCESSES

- 10.1 Exemptions from the Request for Quotation process are set out in the Council's 'Exemptions from the Request for Public Tender and Request for Quotation Processes' procedure.
- 10.2 The CEO or delegate may approve ad-hoc exemptions in exceptional circumstances where it can be demonstrated that it is in the best interests of the community to do so.
- 10.3 If Council employees or persons engaged in procurement on Council's behalf request the exemption, they must follow the requirements of the exemption procedure as described in clause 10.

11. PROCUREMENT PRINCIPLES

- 11.1 Council will apply the following fundamental best practice principles to every procurement, irrespective of the value and complexity of that procurement:
- value for money;
 - open and fair competition that demonstrates impartiality, accountability and meets relevant ethical and legal requirements.
 - accountability;
 - Sustainability (social, economic and environmental outcomes);
 - risk management.
 - probity and transparency.
- 11.2 All prospective contractors and suppliers must be treated impartially and afforded an equal opportunity to tender or submit a quotation.
- 11.3 The principle of Value for Money underpins Council's procurement function. It is 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. Council must apply the Best Value principles which require, among other matters, that:
- all services provided by Council must meet the quality and costs standards and achieve continuous improvement in the provision of services for its community
 - contribute to the advancement of Council's priorities and objectives
 - fit for purpose, quality, social and environmental impacts, 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
- 11.4 Value for money is best achieved by:
- undertaking competitive procurement processes
 - using aggregated contracts where appropriate
 - identifying and rectifying inefficiencies in procurement processes
 - working with suppliers to create relationships that are professional and productive, and *In accordance with sections 101(1) of the Act and the relevant provisions of the Competition and Consumer Act 2010 (Cth).*

12. SUSTAINABLE PROCUREMENT CONSIDERATIONS

- 12.1 Council is committed to procure goods, services or works that will deliver value for money whilst ensuring that Council achieves the most positive environmental, social and economic impacts possible for the Community across the entire lifecycle of goods, services and works.
- 12.2 Council will promote and encourage in its procurement activities and decision making, the following environmental, economic and social sustainability considerations:

12.3 Environmental Sustainability

a. Minimise waste:

- i. by avoiding or reducing the use of goods, materials, products or services that generate waste;
- ii. by re-using goods, products or materials, where possible, to extend their useful lifecycle;
- iii. by procuring goods, products or materials that are recycled or are recyclable.

b. Recycled or Recyclable Materials:

Subject to the nature of the procurement, Council may apply up to a 10% price preference to those suppliers who demonstrate in their submissions or quotations that their goods, products or materials are either recycled or can be recycled.

12.3.1 Promote and encourage in Council procurement activities and decision making by:

- maximisation of energy efficiency and improving energy management;
- reduction of water consumption and improving water management;
- reduction of air, water and soil pollution, greenhouse gas emissions, waste production, natural resource, biodiversity depletion and destruction.
- considering a product's or asset's lifecycle
- managing demand to reduce procurement requirements
- engaging suppliers who are also committed to reducing their environmental impact.

12.4 Economic Sustainability

12.4.1 Subject to the nature of the procurement, Council may procure goods, services or works;

- i. from local suppliers to promote and encourage economic development in the community and foster the relationships with local business;
- ii. from the suppliers who will demonstrate innovative or creative approaches to delivering goods, services or works;
- iii. which will consider the benefits and disadvantages of life-cycle costing of goods, services or works (*i.e. purchase price, maintenance, operating and disposal costs*)
- iv. ensuring accountability and transparency,

12.5 Social Sustainability

12.5.1 Council is committed to building stronger communities and meeting social objectives which benefit the community and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes which subject to the nature of the procurement, Council may procure goods, services or works which will:

- generate local employment opportunities for the community;

- promote and encourage social inclusion amongst local residents;
- support and promote gender equality and safety;
- support and promote safe and fair workplaces.

12.6 Council's Discretion in Price Preference

Subject to the nature of the procurement, Council may apply up to a 10% price preference to those suppliers who demonstrate in their submissions or quotations one or more factors under clause 12.4 Economic Sustainability and clause 12.5 Social Sustainability of this Policy.

13. PROBITY REQUIREMENTS

13.1 Council employees and all persons engaged in procurement on Council's behalf must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. A formal probity plan should be developed, and an external independent probity advisor appointed in the following circumstances:

- Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature or requiring a high level of public confidence.

13.2 A probity advisor may be appointed to any tender evaluation panel and may be appointed to oversee the evaluation process.

Council employees and all persons engaged in procurement on Council's behalf an overriding responsibility to:

- comply with the legal and this Policy requirements;
- ensure appropriately competitive process have been used in the procurement process;
- act impartially, fairly and with honesty and integrity;
- apply consistent and transparent process; and
- avoid perceived or real conflicts of interest and comply with confidentiality requirements.

13.3 **In procurement matters, all Council employees (and all persons engaged in procurement on Council's behalf):**

- must complete and lodge a Conflict of Interest Declaration and a Confidentiality Agreement if engaged in the evaluation of quotations or tenders;
- must disclose a direct or indirect interest and the type of interest before providing advice or reports or any other matter where it could be perceived that an interest might unduly influence them;
- who have been delegated Council powers, duties or functions are prohibited from exercising those powers, duties or functions if they have conflict of interest;
- must adhere to the requirements of this Policy and Officer Code of Conduct; and
- must adhere to the requirements of Council's Gifts, Benefits and Hospitality Policy.

Conduct of Councillors and Council Officers:

- Councillors and Council Officers must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. In accordance with sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.
- must avoid conflicts between his or her public duties as a councillor and his or her interests and obligations;
- must disclose a conflict of interest in any situation where it could be perceived that an interest might unduly influence them;
- must not direct or influence a Council employee in the exercise of any power or in the performance of any duty or function of the employee; and Clause 13 is in accordance with sections 123,127,130,139 and 140 of the Act.

14. RISK MANAGEMENT AND OCCUPATIONAL HEALTH AND SAFETY

- 14.1 Council is committed to manage all aspects of its procurement processes in line with its risk management policy and in such way that all risks, including occupational health and safety, are identified, analysed, evaluated, treated, monitored and communicated to the standards required by the law, Australian Standards and Council policies and procedures. Council will apply appropriate risk avoidance and mitigation strategies whenever practicable and appropriate.
- 14.2 Council requires all contractors, service providers and volunteers to comply with all OH&S legislative requirements. These are mandatory requirements and non-compliance will disqualify prospective suppliers. Suppliers must, upon request by Council, provide evidence of certification or policy when providing goods, services or works.

Council will minimise its risk exposure through measures that:

- Allow sufficient planning and lead-time for procurement preparation and consideration
- integrate risk identification at the earliest planning stage to inform the procurement process
- use Council standard-form or Australian Standard contracts which include current, relevant clauses to mitigate risk to Council
- require security deposits where appropriate
- refer of specifications to relevant experts
- review and negotiate contract departures and non-standard contracts prior to the award of the contract with advice retained as evidence of review and approval of the terms
- ensure agreements are executed prior to commencement, and
- ongoing and timely contract management

15. INTERNAL CONTROL

- 15.1 Council employees and all persons engaged in procurement on Council's behalf must diligently follow a framework of internal controls over procurement processes in order to ensure;
- a. more than one person is involved in, and responsible for, each procurement transaction;
 - b. transparency and probity in the procurement process;
 - c. a clearly documented audit trail exists for procurement functions;
 - d. required authorisations are obtained and documented;
 - e. systems are in place for appropriate monitoring and performance measurement;
 - f. Council maintains all records relevant to administering this Policy in accordance with the *Public Records Act 1973* (Vic); and
 - g. information received by Council that is commercial in confidence must not be disclosed and is to be stored in a secure location. Councillors and Council employees are to protect, by refusing to release or discuss the following:
 - i. information disclosed by organisations in tenders, quotation or during tender negotiations;
 - ii. all information that is commercial in confidence; and
 - iii. pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Clause 15 is in accordance with section 101 of the Act.

16. PERFORMANCE MANAGEMENT AND REPORTING

- 16.1 In order to have continuous improvement in its processes and outcomes Council will evaluate, and at the direction of the Chief Executive Officer report, the following aspects of all procurement and contract management:
- a. opportunities to improve the processes;
 - b. incorporate process improvements to policies, procedures, guidelines and day-to-day practices; *and*
 - c. evaluate contractor performance.

17. COLLABORATIVE PROCUREMENT

- 17.1 In accordance with section 108(c) of the Act, the Council will first give consideration to collaboration where practical with other Councils and public bodies or utilise Collaborative Procurement Arrangements, when procuring goods, services and works in order to take advantage of economies of scale to achieve the best outcomes for the community.

Where practical, Council will co-operate with other organisations and collaborate with other councils in order to achieve the best outcomes for the community and generate benefits for Council, participating Councils, society and the economy.

Council reports that recommend commencing a procurement process must identify the opportunity if available including;

- The nature of those opportunities, if any, and the councils or public bodies with which they are available; and
- Why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

18. PROCUREMENT CREDIT CARDS

Procurement Credit Cards must be used in accordance with Council's Procurement Card Use procedure.

19. PETTY CASH

- 19.1 Petty cash will be used to procure small incidental goods or services and/or urgent purchases and is limited up to \$82.50 per transaction. A claim for petty cash reimbursement will be authorised by a delegated supervisor.

20. TENDER EVALUATION

- 20.1 Council employees and all persons engaged in procurement on Council's behalf must ensure that:

- tender evaluations will be conducted in accordance with the methodology set out in Council's procurement guidelines and tender documents;
- a tender evaluation panel will be established to evaluate each tender submission against the selection criteria;
- a composition of the tender evaluation panel will be determined by a Director or his or her delegate Manager;
- a tender evaluation panel will produce a written report of their evaluation and present their recommendation/s to a Director, and
- the evaluation process is robust, systematic and unbiased.

- 20.2 At the discretion of the Chief Executive Officer or a Director:

- a tender evaluation panel may include external personnel where appropriate in order to ensure best possible outcomes;
- a probity advisor may be appointed to any procurement process and/or tender evaluation panel in order to provide advice and guidance on probity related matters;
- a probity auditor may be appointed to review a procurement and/or evaluation process for continuous improvement; and
- an evaluation panel may be established for a Request for Quotation process for complex, high risk or high value projects.

21. BEST AND FINAL OFFER

- 21.1 Council may shortlist tenderers and invite each shortlisted tenderer to submit its best and final technical and price offers on the basis of the tender requirements.

Once a preferred tenderer is selected negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, providing they remain within the intent and scope of the tender.

22. DECISIONS RESERVED FOR COUNCIL

- 22.1 Council employees must ensure that they seek Council's resolution on:
- a. all contracts with expenditure greater than \$400,000 (goods or services or construction works) or otherwise required by the Act.
 - b. all contract variations that seek to increase the total contract sum by equal to or greater than 15% provided that the original contract was approved by a Council resolution.

23. DECISIONS RESERVED FOR CHIEF EXECUTIVE OFFICER

- 23.1 All contracts with expenditure equal to or less than \$400,000 (goods or services or construction works) must be approved by the Chief Executive Officer or his or her delegate.
- 23.2 All contract variations that seek to increase the total sum less than 15% will be approved by the Chief Executive Officer provided that:
- a. the original contract was approved and executed within the Chief Executive Officer's financial delegation; or
 - b. the original contract was approved by a Council resolution.

All values in clauses 22 and 23 are inclusive of GST.

24. DELEGATIONS AND AUTHORITY

- 24.1 Council will maintain a Delegations Register which specifies the level of delegated authority required for approval of a quotation, purchase order, tender, invoice and any other expenditure and contractual process for each instance of procurement.
- 24.2 A delegation for Council employees, except the Chief Executive Officer, may be amended from time to time at the sole discretion of the Chief Executive Officer or his or her delegate. The Chief Executive Officer's delegated authority is set by Council.

In accordance with section 10, 11 of the Act.

25. EXECUTION OF CONTRACT OR AGREEMENT

- 25.1 The Chief Executive Officer will execute any contract or agreement on behalf of Council provided that:
- a. the contract or agreement is within the Chief Executive Officer's financial delegation; or
 - b. Council by its resolution has awarded the contract or agreement which is outside the Chief Executive Officer's financial delegation.
 - c. The Chief Executive Officer may delegate the execution of any contract or agreement to a director
 - d. Notwithstanding clause 24 Council may resolve to delegate execution of a contract or agreement to the Mayor or Council's delegate.

26. CONTRACT MANAGEMENT

- 26.1 Council will maintain a Contracts Register where it will record contracts that Council has entered into for the procurement of goods, services or works.
- 26.2 The purpose of contract management is to ensure that Council, and where applicable its customers, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract.
- 26.3 The provision of goods, services and works by contract potentially exposes Council to risk, Council will minimise its risk exposure by measures such as:
- a. standardising contracts to include current, relevant clauses;
 - b. requiring a contractor to provide evidence of a labour hire licence under the *Labour Hire Licensing Act 2018* (Vic);
 - c. ensuring the contract or purchase order reflects the tender pricing;
 - d. requiring security deposits where appropriate;
 - e. requiring evidence of relevant insurance cover;
 - f. referring specifications to relevant experts where appropriate;
 - g. requiring a correctly executed contractual agreement before commencement;
 - h. use of or reference to relevant Australian Standards (or equivalent); and
 - i. effectively managing the contract including monitoring and enforcing performance.

27. TRAINING AND SKILL DEVELOPMENT

- 27.1 In order to have continuous improvement Council will provide:
- a. training for the procurement team and ongoing opportunities to update their skills

and knowledge;

- b. strategic and governance training for the management team about their roles and responsibilities in leading and supporting Council's procurement and governance processes and practices; and
- c. induction training for new employees which will provide core guidance on Council's procurement policy and procedures.

28. RESPONSIBILITIES

Compliance, monitoring and review

- 28.1 The policy owner is responsible for ensuring the policy:
- 28.2 Aligns with relevant legislation, government policy and Council's requirements/strategies/values;
- 28.2.1 is implemented and monitored (i.e. the policy is followed, reflects the changing policy environment, and emerging issues are identified); and
 - 28.2.2 is reviewed to evaluate its continuing effectiveness (e.g. achieving its purpose, remains relevant/current.)

Reporting

- 28.3 No additional reporting is required.

Records Management

- 28.4 Council must maintain all records relevant to administering this policy in accordance with the Public Records Act 1973.

29. DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Terms and definitions

| Term | Definition |
|--|--|
| <i>Act</i> | <i>Local Government Act 2020.</i> |
| <i>Collaborative Procurement Arrangement</i> | <i>Collaborative procurement is the centralisation of the procurement of goods, services or works which are repetitive and common to multiple organisations, or that are highly complex and benefit from specialisation and may be achieved through aggregation of agreements and panels, sharing expertise or knowledge or combined Council procurements.</i> |
| <i>Aggregators / Approved Nominated Arrangements</i> | <i>Organisations that aggregate demand for goods or services across multiple Councils and go to market as Council's agent. Councils may access contracts created by approved aggregators at any time (MAV Procurement, Procurement Australia, State Government, council/s) unlike a one-off collaborative procurement activity.</i> |
| <i>Commercial in Confidence</i> | <i>Information that, if released, may prejudice the business dealings or commercial interests of Council or another</i> |

| Term | Definition |
|--------------------------------------|--|
| | <i>party, e.g. prices, discounts, rebates, profits, methodologies, and process information, etc.</i> |
| <i>Contract Management</i> | <i>The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide Value for Money.</i> |
| <i>Council</i> | <i>Golden Plains Shire Council organisation, including Councillors and Council Staff.</i> |
| <i>Councillors</i> | <i>Council's elected representatives (the Mayor and Councillors) or Administrator(s) appointed to act in this capacity.</i> |
| <i>Council Staff</i> | <i>Includes all Council officers, temporary employees, contractors, volunteers and consultants while engaged by Council.</i> |
| <i>Direct purchasing</i> | <i>A buyer does not conduct any competitive process in the procurement of a good or service and selects/purchases the goods or services instantly without any evaluation or selection process e.g. Purchase Card; use of Panel /aggregator etc.</i> |
| <i>IBAC</i> | <i>The Independent Broad-based Anti-Corruption Commission</i> |
| <i>Indigenous Business</i> | <i>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).</i> |
| <i>Local Business</i> | <i>A commercial business with an operational premise that is physically located within the municipal borders of the G21 Group of Councils</i> |
| <i>Geelong Region Alliance (G21)</i> | <i>The 5 Councils comprising the G21, being the Colac Otway Shire, Golden Plains Shire, City of Greater Geelong, Borough of Queenscliff and Surf Coast Shire Councils.</i> |
| <i>Probity</i> | <i>Within government, the term "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.</i> |
| <i>Purchase Order</i> | <i>A form of contract. It is an official document used to authorise and record the purchase of goods or services by a buyer and is the prime reference confirming the contractual situation between the buyer and supplier</i> |
| <i>Procurement</i> | <i>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.</i> |
| <i>Schedule of Rates Contract</i> | <i>A standing offer arrangement based on a Schedule of Rates contract that sets out rates for goods and services which are available for the term of the agreement but without a commitment to purchase a specified value or quantity of goods or services.</i> |
| <i>Sustainability</i> | <i>Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.</i> |

| Term | Definition |
|------------------------|---|
| <i>Tender Process</i> | <i>The process of inviting parties from either a select list or via public advertisement to submit an offer by tender followed by evaluation of submissions and selection of a successful bidder or tenderer in accordance with pre-determined evaluation criteria.</i> |
| <i>Value for Money</i> | <i>Value for Money in procurement is about selecting the supply of goods, services and works considering both cost and non-cost factors including: non-cost factors such as contribution to the advancement of Council's priorities, 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.</i> |

30. RELATED LEGISLATION AND DOCUMENTS

Strategic Documents, Policies or Procedures

*Complaints Handling Procedure
Council's Officer Code of Conduct
Councillor Code of Conduct
Risk Management Policy
Occupational Health and Safety Policy
Other relevant Policies*

Legislation

Council must comply with all the relevant provisions of the Acts and Regulations in all procurement matters, including but not limited to:

*Charter of Human Rights and Responsibilities Act 2006 (Vic)
Competition and Consumer Act 2010 (Cth)
Local Government Act 2020 (Vic)
Local Government (General) Regulations 2015 (Vic)
Modern Slavery Act 2018
Occupational Health and Safety Act 2004 (Vic)
Occupational Health and Safety Regulations 2017 (Vic)
Privacy and Data Protection Act 2014 (Vic)
Public Records Act 1973 (Vic)
Other relevant legislative instruments.*

Council may at its discretion comply with the following:

Guidelines

Best Practice Procurement Guidelines 2013 (Victorian Local Government)

31. PROCUREMENT GUIDELINES

- 31.1 Council will develop and maintain procurement guidelines which will detail the procedure and processes and provide guidance to Council on all operational aspects of procurement.

32. HUMAN RIGHTS STATEMENT OF COMPATABILITY

- 32.1 As a public authority, Council has a duty to act compatibly with human rights and to give human rights proper consideration in decision making.
- 32.2 It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act 2006 (Vic)
-

33. POLICY OWNER

- 33.1 The Director of Corporate Services is the policy owner.
-

34. COUNCIL TENDERS' WEBPAGE

- 34.1 Information about Council's current, closed and awarded tenders will be placed on the Council Tender webpage.
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35. FEEDBACK ABOUT THE POLICY

- 35.1 You may provide feedback about this document by emailing to Council's procurement team at procurement@gplains.vic.gov.au
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36. DOCUMENT INFORMATION

| | |
|---------------------------------------|---|
| DOCUMENT TYPE: | Strategic document |
| DOCUMENT STATUS: | |
| DOCUMENT OWNER POSITION: | Director Corporate Services |
| APPROVED BY COUNCIL RESOLUTION ON: | |
| VERSION NUMBER: | 2 |
| LGA 2020 REVIEW DATE REQUIREMENT | Procurement Policy must be reviewed least once during each 4-year term of the Council |
| REVIEW DATE GPSC COUNCIL: | The Procurement Policy must be reviewed at least once in each financial year. |
| EVIDENCE OF APPROVAL: | Signed by Chief Executive Officer |
| FILE LOCATION: | INT19/1E6DB05E |
| NOTES: | <p>Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version.</p> <p>Please consult Council's Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date. Available at:</p> <p>https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies</p> |



Exemption Procedure
from the Request for Public Tender and Request
for Quotation Processes

Under the Procurement Policy
Approved on 29 June 2021

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| Exemption Procedure under the Procurement Policy | effective Date: 1 July 2021 |
| Exemption Procedure under the Procurement Policy Rev .1.3 | effective Date: 1 July 2021 |

1. BACKGROUND

The Exemption Procedure from the Request for Public Tender and Request for Quotation Processes ('Exemption Procedure') is established:

- in line with the Procurement Policy which was adopted by Council on 29 June 2021
- to provide guidance to Council employees about the type of goods, services or works which are exempt from the requirements of the public tendering or request for quotation processes.

2. PURPOSE

The purpose of the Exemption Procedure is to:

- set a good governance and compliance direction for Council and Council employees in undertaking procurement;
- provide guidance to Council employees about the exemptions from the public tendering and request for quotation processes and how to apply for exemption;
- achieve compliance with relevant legislative requirements;
- ensure that Council resources are used efficiently and effectively in the best interests of the local community;
- achieve high standards of probity, transparency, accountability and risk management.

3. APPLICATION OF THE EXEMPTION PROCEDURE

This Exemption Procedure will apply to all Council employees and all persons engaged in procurement on Council's behalf. With the Chief Executive's approval, exemptions can be added or removed at any time.

4. COMPLIANCE WITH THE PROCUREMENT PRINCIPLES

Where an exemption applies under clauses 5 and 6, the key procurement principles as set out below will still apply:

- a. value for money;
- b. maintaining transparency and accountability;
- c. maintaining probity;
- d. managing risk;
- e. open and fair competition;
- f. compliance with Council's Officer Code of Conduct requirements;
- g. avoiding and managing conflict of interest, perceived or real, *and*
- h. ensuring compliance with confidentiality principles.

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5. NON- APPLICATION OF THE PROCUREMENT PROCESS

Note: exempt from market engagement and/or the requirement for a Purchase Order

Procurement process will not apply to the following payments:

5.1 Statutory Payments

- Legislative or statutory requirements such as payments to the Australian Taxation Office, fire and EPA Victoria levies and/or fines
- Payments under the Building and Construction Industry Security of Payment Act 2002
- Roads Corporation of Victoria (VicRoads) payment for fleet management

5.2 Council Employees and Councillors

- Superannuation
- Payroll Deductions
- WorkCover, Injury Management
- Licences or Membership and Subscription Renewals
- Mayor and Councillor allowances, expenses and reimbursements

5.3 Council Owned, Leased or Managed Properties

- Sale or Purchase of Land
- Lease or Licence of Property
- Warranty or Renewals
- Investments/Terms deposits
- Loan contracts and investments
- Contracts for sale of goods
- Grants (from the Federal or State Government) where Council's role in the funding arrangement is that of 'fund manager' and passes on funds from another level of government or other body.

5.4 Others

- Sundry Funds (such as pension rebates, deceased animal refunds)
- Utility Services such as gas, water, sewerage charges, telecommunication whereby the infrastructure is owned and managed by a single or particular party.
- Australia Post charges
- Medical expenses
- Legal Services
- Refundable trust funds- Includes Security Bonds, Contract Retentions and other funds held in trust.
- Venue Hire
- Audit fees
- General advertising
- Recruitment advertising

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6. EXEMPTIONS FROM THE GENERAL PUBLICLY ADVERTISED TENDER, QUOTATIONS AND EXPRESSION OF INTEREST REQUIREMENTS:

6.1 Sole Supplier There is one or a limited number of available tenderers in the market or suppliers able to submit quotations or the marketplace is restricted by statement of license, Intellectual Property or third-party ownership of an asset (excluding public utility plant)

6.2 It is in the public interest

6.3 Emergency - where the Chief Executive Officer decides that the contract must be entered into because of an emergency. Council must consider delegation of this power to the CEO.

Emergency means:

- the occurrence of a natural disaster such as flooding, bushfire or epidemic which may require the immediate procurement of goods, services or works to provide relief;
- a state disaster declared under the *Emergency Management Act 1986*;
- the occurrence of an event such as flooding, fire or other significant damage to a Council property which may require the immediate procurement of goods, services or works to ensure business continuity;
- any sudden or unexpected destruction to Council property or Council business such as IT breakdown or failure;
- the unforeseen cessation of trading of a core service provider due to bankruptcy and a need to appoint a replacement service provider on the grounds of public safety;
- any other situation which might present a risk to public health, safety and/or security;
- any other situation which might present a risk to Council employees' health, safety and/or security;
- any other situation which is liable to constitute a risk to Council's property

6.4 Supplier with highly specialised skills or expertise - this applies where Council needs highly specialised or expertise advice. The transparent way of engaging the supplier would be demonstrating that multiple suppliers do not exist to provide the goods or service and Council will receive value for money by using the supplier's goods or service.

6.5 Operating Lease - Operating Lease such as leasing a vehicle or plant and equipment for a fixed monthly amount, and also a lessor (not Council) assumes the residual value risk of the asset. The asset under the operating lease does not vest in the Council.

6.6 Council employees who are requesting exemption from the Request for Quotation process under this clause 6 must submit a 'Request for Exemption

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Form' to seek the Chief Executive Officer or a Director approval. **See Attachment A - Request for Exemption Form.**

- 6.7 Approval will be subject to the financial delegation of either the Chief Executive Officer or a Director except clauses 6.2 and 6.3 which will be approved by the Chief Executive Officer.
- 6.8 **Emergency** - where Council has resolved that the contract must be entered into because of an emergency. See definition of emergency under clause 6.3 of this Procedure. Council must consider delegation of this power to the CEO.
- 6.9 **Insurance;**
- The public liability and professional liability insurances taken out by Council, which is a member of, or participates in, MAV Insurance scheme which is approved by the Minister.
 - WorkCover insurance;
 - Motor Vehicle compulsory third party insurance.
- 6.10 **Collaborative Arrangement** - Council may procure goods, services or works with a council acting as the agent for a group of councils.
- 6.11 **Information technology resellers and software developers-** Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
- 6.12 **Legal Services/costs** - a contract for legal services or legal costs.
- 6.13 Professional workshop and conference registration fees and associated costs.
- 6.14 **VEC** - payments to the Victorian Electoral Commission (VEC).
- 6.15 **Collaborative / Approved Arrangements:**
Council may procure goods, services or works without undertaking public tender process through:
- Situations where a regional waste management group is established and had already conducted a public tender on behalf of its member councils.
 - Municipal Association of Victoria Procurement (MAV Procurement).
 - Construction Supplier Register (CSR) which is a pre-qualification scheme for building and construction industry contractors and consultants.
 - Procurement Australia (PA).
 - State Purchase Contracts (SPCs) and Whole of Victorian Government Contracts (WoVGs).
 - E-Services register – whole of Victorian government pre-qualification register for multiple suppliers for IT services, equipment, and maintenance.
- 6.16 Council employees must ensure that they follow the rules, where applicable, required by the above agents specified under clause 6.15

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6.17 **Novated Contract** - Novated contracts are exempt from public tendering providing:

- the initial contract was entered into in compliance with the *Local Government Act 2020*
- the Council has undertaken due diligence in respect of the new party to the contract.

6.18 Council employees are not required to submit any Request for Exemption Form for procurement under this clause 6.

7. RECORD MANAGEMENT

7.1 Upon approval of any Request for Exemption Form, record it together with any supporting document/s against the relevant project name and/or number, or together with a Purchase Order in the Enterprise Content Management (ECM) and the relevant file.

8. FEEDBACK ABOUT THE EXEMPTION PROCEDURE

8.1 You may provide feedback about this document by emailing to Council's Procurement Team at procurement@gplains.vic.gov.au

9. DOCUMENT INFORMATION

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| DOCUMENT TYPE: | Procurement Policy document |
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| REVIEW DATE: | |
| EVIDENCE OF APPROVAL: | Signed by Chief Executive Officer |
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