



GOLDEN PLAINS SHIRE

# **ATTACHMENTS**

**Under Separate Cover  
Ordinary Council Meeting**

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**6.00pm Tuesday 26 May 2020**



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PROCUREMENT POLICY



# Procurement Policy

Last updated 26 May 2020

**PROCUREMENT POLICY**

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**PROCUREMENT POLICY**

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**1. BACKGROUND**

The *Local Government Act 1989 (Vic)* ('the Act') requires a Council to:

- a. publicly tender goods, services and works over certain thresholds (section 186 of the Act); and
- b. 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 (section 186A of the Act).

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**2. PURPOSE**

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

- 2.1 set a good governance and compliance direction for Council and Council employees in undertaking procurement;
- 2.2 establish a procurement framework for Golden Plains Shire Council ('Council') to achieve value for money and continuous improvement in the provision of services for the community;
- 2.3 achieve compliance with relevant legislative requirements;
- 2.4 ensure that Council resources are used efficiently and effectively in the best interests of the local community;
- 2.5 achieve high standards of probity, transparency, accountability and risk management;
- 2.6 ensure all contractors and suppliers will be afforded an equal opportunity to tender or quote.
- 2.7 give preference to the procurement of environmentally sustainable goods, services and works.

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**3. SCOPE**

- 3.1 This Policy provides the principles, processes and procedures that will be applied to the purchase of all goods, services and works obtained and/or undertaken by Council.
- 3.2 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.

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**4. APPLICATION OF THE POLICY**

4.1 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.

**5. PROCUREMENT METHODOLOGY**

5.1 The table below records a summary of the methodology for procurement at certain threshold levels and the delegated authority to sign the Contracts on Council’s behalf as follows:

| Procurement Threshold<br>(Inclusive of GST)  | Procurement Methodology  | Authority to Sign Contract/Agreement***                  |
|--|--|--|
| <b>\$0 - \$5,500</b>   | <ul style="list-style-type: none"> <li>Request at least one (1) verbal quotation; and</li> <li>Raise a Purchase Order</li> </ul>   | Not applicable   |
| <b>\$5,501 - \$33,000</b>  | <ul style="list-style-type: none"> <li>Request at least two (2) written quotations; and</li> <li>Raise a Purchase Order</li> </ul>   | Not applicable   |
| <b>\$33,001 - \$149,999</b><br>(Goods & Services)<br><br><b>\$33,001 - \$199,999</b><br>(Construction Works)   | <ul style="list-style-type: none"> <li>Request at least three (3) written quotations;</li> <li>Raise a Purchase Order; and</li> <li>A formal contract is required</li> </ul>   | Chief Executive Officer<br><br><b>OR</b><br><br>Director |
| <b>\$150,000 - \$400,000</b><br>(Goods & Services)<br><br><b>\$200,000 - \$400,000</b><br>(Construction Works) | <ul style="list-style-type: none"> <li>Undertake a public tender process through Council’s e-Procure portal</li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>Procure goods, services or works under the Ministerial approved arrangements or agency arrangement (see clause 9 of this Policy); and</li> <li>A formal contract is required</li> </ul> | Chief Executive Officer                                  |

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**NOTE: \*\*\*** For guidance refer to Council's Delegations Register and procurement manual.

- 5.2 Council's standard methods of procurement incorporate:
- a. Procurement Credit Cards and Petty Cash (**see clauses 18 and 19**);
  - b. Purchase Order following a Request for Quotation process (**see clause 6**);
  - c. Contract following a public tender process (**see clauses 7 and 8**);
  - d. Contract entered under the Ministerial Approved Arrangements or Agency Arrangement (**see clause 9** and Council's '**Exemptions from the Request for Tender and Request for Quotation Process**' procedure.)

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**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:
- a. Procurements with a value up to **\$5,500** should be made after requesting at least one (1) verbal quotation;
  - b. Procurements with a value between **\$5,501 to \$33,000** should be made after requesting at least two (2) written quotations;
  - c. Procurements with a value between **\$33,001 to \$149,999** for goods or services or **to \$199,999** for construction works, should be made after requesting at least three (3) written quotations.
- 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 \$150,000 (for goods or services) or \$200,000 (for construction works) if this process will serve Council's best interests and provide a better outcome.

*All values are inclusive of GST.*

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

7.1 For all procurements equal to or greater than \$150,000 for goods or services (equal to or greater than \$200,000 for construction works) 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 the Ministerial approved arrangements in compliance with the Act as stated under clause 9 of this Policy;
- iii. procured under an agency arrangement in compliance with the Act as stated under clause 9 of this Policy; or
- iv. 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.

*All values are inclusive of GST.*

*Clause 7 is in accordance with section 186(1) and (5) of the Act.*

**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.

8.2 All expressions of interest must be publicly advertised and comply with section 186(1),(2) and (3) of the Act.

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**9. MINISTERIAL APPROVED ARRANGEMENTS AND AGENCY ARRANGEMENT*****Ministerial Approved Arrangements***

- 9.1 Council may procure goods, services or works without undertaking public tender process through:
- a. Municipal Association of Victoria Procurement (MAV Procurement);
  - b. Construction Supplier Register which is a pre-qualification scheme for building and construction industry contractors and consultants;
  - c. Procurement Australia;
  - d. State Purchase Contracts (SPCs) and Whole of Victorian Government Contracts (WoVGs).
- 9.2 Council employees must ensure that they follow a process, where applicable, required by the bodies outlined in clause 9.1.

***Agency Arrangement - Council Acting as the Agent***

- 9.3 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.

*Clause 9 is in accordance with section 186(5)(b) and (c) of the Act.*

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

- 10.1 Exemptions from the public tender process are set out in section 186(5) and (5A) of the Act and Council's '*Exemptions from the Request for Public Tender and Request for Quotation Processes*' procedure.
- 10.2 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.
- 10.3 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 clauses 10.1 and 10.2.

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**PROCUREMENT POLICY**

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**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:
- a. value for money;
  - b. open and fair competition;
  - c. accountability;
  - d. risk management;
  - e. probity and transparency.
- 11.2 Council must also apply the Best Value principles which require, among other matters, that:
- a. all services provided by Council must meet the quality and costs standards; and
  - b. Council must achieve continuous improvement in the provision of services for its community.
- 11.3 Council must implement principles of sound financial management.

*Clause 11 is in accordance with sections 136(1) and 208B of the Act and the relevant provisions of the Competition and Consumer Act 2010 (Cth).*

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**12. SUSTAINABLE PROCUREMENT CONSIDERATIONS**

- 12.1 Council is committed to procure goods, services or works that will deliver value for money and will generate benefits for Council and its community whilst reducing damage to the environment and human health.
- 12.2 Council will promote and encourage in its procurement activities and decision making, the following environmental, economic and social sustainability considerations:
- 12.2.1 **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.

**PROCUREMENT POLICY****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.

**c. Promote and encourage in Council procurement activities and decision making:**

- i. reduction of greenhouse gas emission;
- ii. maximisation of energy efficiency and improving energy management;
- iii. reduction of water consumption and improving water management;
- iv. minimisation of nature destruction and pollution.

**12.2.2 Economic Sustainability**

- a. Subject to the nature of the procurement, Council may procure goods, services or works:
  - i. from local suppliers in order 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).
- b. Whenever practicable, Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand (section 186(6) of the Act).

**12.2.3 Social Sustainability**

Subject to the nature of the procurement, Council may procure goods, services or works which will:

- a. generate local employment opportunities for the community;
- b. promote and encourage social inclusion amongst local residents;
- c. support and promote gender equality and safety;
- d. support and promote safe and fair workplaces.

**12.3 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 clauses 12.2.2 Economic Sustainability and 12.2.3 Social Sustainability of this Policy.

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**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.
- 13.2 Council employees and all persons engaged in procurement on Council's behalf have an overriding responsibility to:
- a. comply with the legal and this Policy requirements;
  - b. ensure appropriately competitive process have been used in the procurement process;
  - c. act impartially, fairly and with integrity;
  - d. apply consistent and transparent process; and
  - e. avoid conflict 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):**
- a. must complete and lodge a Conflict of Interest Declaration and a Confidentiality Agreement if engaged in the evaluation of quotations or tenders;
  - b. 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;
  - c. who have been delegated Council powers, duties or functions are prohibited from exercising those powers, duties or functions if they have conflict of interest;
  - d. must adhere to the requirements of this Policy and Officer Code of Conduct; and
  - e. must adhere to the requirements of Council's gifts and hospitality procedure.
- 13.4 **In procurement matters, all Councillors:**
- a. must avoid conflicts between his or her public duties as a councillor and his or her personal interests and obligations;
  - b. must disclose a conflict of interest in any situation where it could be perceived that an interest might unduly influence them;
  - c. 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
  - d. must comply with the primary principle of Councillor conduct.

*Clause 13 is in accordance with sections 76B, 76BA, 76E, 79, 80B, 80C, 95, 95AA of the Act.*

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**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.
- 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.

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**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 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 140 of the Act.*

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**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, manual and day-to-day practices; and
  - c. evaluate contractor performance.

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**17. COLLABORATIVE PROCUREMENT**

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

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**18. PROCUREMENT CREDIT CARDS**

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

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**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.

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**20. TENDER EVALUATION**

- 20.1 Council employees and all persons engaged in procurement on Council's behalf must ensure that:
- a. tender evaluations will be conducted in accordance with the methodology set out in Council's procurement manual and tender documents;
  - b. a tender evaluation panel will be established to evaluate each tender submission against the selection criteria;
  - c. a composition of the tender evaluation panel will be determined by a Director or his or her delegate Manager;
  - d. a tender evaluation panel will produce a written report of their evaluation and present their recommendation/s to a Director; and
  - e. the evaluation process is robust, systematic and unbiased.

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- 20.2 At the discretion of the Chief Executive Officer or a Director:
- a. a tender evaluation panel may include external personnel in order to ensure value for money;
  - b. a probity advisor may be appointed to any procurement process and/or tender evaluation panel in order to provide advice on probity related matters;
  - c. a probity auditor may be appointed to review a procurement and/or evaluation process for continuous improvement; and
  - d. an evaluation panel may be established for a Request for Quotation process for complex, high risk or high value projects.

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**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.
- 21.2 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.

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**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.

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**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 below 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.*

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**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.

*Clause 24 is in accordance with section 98 of the Act.*

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**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.
- 25.2 The Chief Executive Officer may delegate the execution of any contract or agreement to a Director.
- 25.3 Notwithstanding clause 25.1, Council may resolve to delegate execution of a contract or agreement to the Mayor or Council's delegate.

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**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;

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- 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.

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### 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.

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### 28. RELATED LEGISLATION, POLICIES AND GUIDELINES

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

#### Legislation

- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Competition and Consumer Act 2010* (Cth)
- *Local Government Act 1989* (Vic)
- *Local Government (General) Regulations 2015* (Vic)
- *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.

#### Policies

- Council's Officer Code of Conduct
- Councillor Code of Conduct
- Risk Management Policy
- Occupational Health and Safety Policy
- Other relevant Policies

28.2 Council may at its discretion comply with the following

#### Guidelines

- Best Practice Procurement Guidelines 2013 (Victorian Local Government)

