

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

18 November 2014

Agenda Item 5.1 Adoption of Procurement Policy

Attachment 1 Procurement Policy.....51

GREATER SHEPPARTON CITY COUNCIL

and

Goulburn Valley Regional Collaborative Alliance

Policy Number 13.POL1

Procurement Policy

Version 2.0

Adopted February 2013

Last Reviewed November 2014

Business Unit:	Corporate Performance
Responsible Officer:	Manager Corporate Performance
Approved By:	Chief Executive Officer
Next Review:	November 2015

PURPOSE

The intent of this *Procurement Policy* ("the Policy") is to achieve best value outcomes and ensure high standards of probity and accountability in the procurement of goods, services and works for:

- a) the Greater Shepparton City Council ("Council"); and
- b) the Goulburn Valley Regional Collaborative Alliance ("GVRCA") of which Council and the Strathbogie Shire Council ("Strathbogie") are foundation members.

Accordingly, the Policy provides for procurement processes where:

- a) Council invites tenders for goods, services or works where Council will be the principal to the contract; and
- b) Council invites tenders as an agent for Strathbogie with the intention that each council subsequently enters into a contract.

OBJECTIVE

The objective of this Policy is to ensure that Council's procurement principles, policies, processes and procedures achieve the following objectives:

- a) value for money, innovation and continuous improvement in the provision of services for the community;
- b) a strategic approach to procurement planning, implementation and evaluation;
- c) enabling sustainable outcomes including economic, environmental and social sustainability;
- d) efficient and effective use of Council resources;
- e) utilising collaboration and partnership opportunities;
- f) high standards of probity, transparency, accountability and risk management; and
- g) compliance with legislation, the *Council Plan 2013-2017* objectives, Council policies and industry standards.

SCOPE

Section 186A of the *Local Government Act 1989* ("the Act") requires councils to prepare, approve and comply with a procurement policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works.

This Policy must be considered in all aspects of the procurement of goods, services and works. Each council must also review its policy annually and make it available for public inspection at Council offices and on the website.

The scope of this Policy commences from when there is an identified need for procurement requirements and continues through to the delivery of goods or completion of works and services. The Policy applies to Council, Councillors, Council staff and all persons undertaking procurement on Council's behalf and they are accountable for complying with all relevant procurement legislative and policy requirements.

DEFINITIONS

Reference term	Definition
Act	<i>Local Government Act 1989.</i>
Best and Final Offer	A best and final offer allows council to invite shortlisted tenderers to submit their best and last technical and priced offer on the basis of the tender requirements. This will be used when two or more bids are difficult to split following an evaluation. This is done by the Contract and Procurement Department
Best value	Best value in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ol style="list-style-type: none"> 1. contribution to the advancement of the Council's priorities; 2. non-cost factors such as fitness for purpose, quality, service and support; and 3. cost-related factors including, where appropriate, whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
Commercial in confidence	Information that, if released, may prejudice the business dealings of a party eg: prices, discounts, rebates, profits, methodologies and process information.
Contract management	The process that ensures both parties to a contract that 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, part-time and temporary Council staff, contractors and consultants engaged by the Council.
Expression of Interest (EOI)	An invitation for persons to submit an EOI for the provision of the goods and/or services generally set out in the overview of requirements contained in the document. This invitation is not an offer or a contract
Panel contract	A panel contract is a standing offer agreement where multiple contractors are appointed to a panel of suppliers, rather than an agreement with just one contractor.

Probity	<p>Within local government, the word "probity" is often used in a general sense to mean "good process."</p> <p>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.</p>
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.
e-Procurement	e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system/s to acquire and pay for goods, services and works.
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 agreement	<p>The contractor agrees to provide Council with specific goods or services as nominated in the contract and the contract is for a fixed period.</p> <p>There is no obligation on Council to purchase any goods or services, however if purchases are made under the contract, they are made under the terms and conditions which form part of the contract.</p>
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tender process	The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.

POLICY

1. Policy Principles and Application

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

- a) value for money;
- b) open and fair competition;
- c) accountability;
- d) risk management; and
- e) probity and transparency.

The application of this Policy needs to be considered in the overall context of achieving the best value for money outcomes for Council, the Greater Shepparton community and the GVRCA community.

A key message is that the purchasing of goods, services and works needs to be sensitive to customer needs and expectations, market demand, market supply and prevailing market forces to achieve the best possible purchasing outcomes.

2. Roles & Responsibilities

The Council is transitioning from a “centre led” procurement service delivery model to a centralised procurement model. The initial focus will be on centralising much of the tendering process over a 12 month period.

Under the new centralised model, the Contracts and Procurement Team’s role will be to transition to the following responsibilities:

- a) responsibility for the *Procurement Policy*;
- b) responsibility for the *Procurement Guidelines*;
- c) custodian of tender documents such as Conditions of Contract and Conditions of Tender;
- d) provision of advice to other Departments;
- e) regular liaison with Strathbogie;
- f) facilitating joint tenders;
- g) managing the tendering process including:
 - i. assisting Departments and Teams with the preparation of specifications;

- ii. finalising the tender documentation;
- iii. advertising;
- iv. responding to enquiries from tenderers;
- v. issuing of addenda;
- vi. opening and distribution of tenders;
- vii. chairing every tender evaluation panel (“TEP”);
- viii. keeping notes from the TEP;
- ix. arranging checks on the financial viability of preferred tenderers;
- x. input to the report of the TEP;
- h) ensuring that each contract is properly awarded;
- i) arranging the exchange and execution of contracts;
- j) after input from the relevant Department:
 - i. extending contracts where appropriate;
 - ii. arranging contract novations;
 - iii. documenting contract variations;
 - iv. Returning of security and retention payments
- k) maintenance of the contract register;
- l) collating information on non-compliant contracts and ensuring these are included in the public register required to be kept pursuant to the *Local Government (General) Regulations 2004*. (Note – these Regulations “sunset” on 25 October 2014 and will be replaced or extended);
- m) quarterly reporting to Executive on the extent of compliance with the *Procurement Guidelines*;
- n) generally ensuring the consistency of procurement processes throughout the organisation.
- o) Reporting monthly to Council on current tenders

- p) Manage the Councils Contract Management System

Under the centralised model, the role of the Directorates and Departments will be transitioned to the following responsibilities:

- a) ensuring the proposed tender complies with the *Procurement Policy* and *Procurement Guidelines*;
- b) Allocating a Responsible Officer to each tender/contract
- c) ensuring the necessary approvals (eg: procurement plan, Director's approval etc) are obtained;
- d) preparation of draft specifications;
- e) referee checking of short listed or preferred tenderers;
- f) preparation of the draft TEP report (to the Council officer with delegation to award the contract);
- g) where required, preparation of the report to Council to award the contract;
- h) managing the contract;
 - i. Delivery of specified works, goods and services
 - ii. Delivery of contract in accordance with the terms and conditions
- i) reporting on contractor performance;
- j) ensuring that, where appropriate, there is timely liaison with the Contracts and Procurement Team to arrange contract extensions; and
- k) ensuring that there is timely liaison with the Contracts and Procurement Team to re-tender for goods, services or works when required.
- l) Issuing of practical and final completion certificates

The Contract and Procurement Analyst is responsible for leading the operation of the Contract and Procurement Team and is responsible for implementing, monitoring, evaluating and reviewing this Policy.

3. Ethics and Probity

Councillors and members of staff (and all persons engaged in procurement activities on the Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny.

In accordance with the Act, all members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (section 95 – Conduct Principles).

In procurement matters:

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- a) members of staff must disclose a direct or indirect interest (and the type of interest) before participating in any tendering process. Once a conflict is disclosed, the staff member must have no part on the tendering process;
- b) Council officers with delegated powers, duties or functions are prohibited from exercising those powers, duties or functions if they have conflicts of interest (section 80B);
- c) Councillors must comply with the Primary Principle of Councillor Conduct and avoid conflicts between their public duties as a Councillor and their personal interests and obligations (section 76BA). Councillors, members of special committees and members of the Audit Committee must disclose a conflict of interest (section 79);
- d) Councillors must comply with the *Councillor Code of Conduct*;
- e) Councillors must not improperly direct or improperly influence a member of Council staff in the exercise of any power in the performance of any duty or function (section 76E);
- f) members of staff must comply with the *Code of Conduct for Council Staff* (section 95AA);
- g) Council must comply with the Best Value Principles (section 208A-G);
- h) all staff engaged in the evaluation of a quotation or tender must adhere to this Policy and complete and lodge a *Conflict of Interest Disclosure Form* and a *Deed of Confidentiality* with the TEP Chairperson; and
- i) all Councillors and staff must adhere to *Council's Gifts and Benefits Policy* in matters of procurement.

Councillors and staff must make their interests known in any situation where it could be perceived that an interest might exist.

4. Late tenders

Late tenders will not be accepted under any circumstances.

5. Probity Plan and Probity Audits

When projects are identified as of sufficient complexity, risk or scale (ie greater than \$10 million), a probity plan is to be prepared and a probity advisor may be engaged.

Where necessary, a probity advisor or probity auditor shall review and certify the suitability of the tender, evaluation and award processes to ensure that:

- a) this Policy and the *Procurement Guidelines* are followed;
- b) all tenderers are treated equally and fairly;

- c) all material is kept confidential; and
- d) an audit trail of communications and decision-making is retained for proof of process.

The role of the probity adviser or probity auditor may include:

- a) reviewing the draft tender documentation;
- b) attending the opening of the tenders;
- c) attending meetings of the TEP, including any interviews of short listed tenderers;
- d) reviewing the draft report of the TEP; and
- e) providing a report.

6. Conduct of Councillors and Council Staff

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

- a) treat potential and existing suppliers with equality and fairness;
- b) not seek or receive personal gain;
- c) maintain confidentiality of Commercial-in-Confidence matters and information such as tender and contract prices and other sensitive information;
- d) present the highest standards of professionalism and probity;
- e) deal with suppliers in an honest and impartial manner that does not allow conflicts of interest; and
- f) be able to account for all decisions and provide feedback on them.

- g) Deal with suppliers in an honest and impartial manner that does not allow conflicts of interest
- h) Remain natural prior to all decisions
- i) Avoid approaching and liaising with prospective tenderers and contractors.

Council staff responsible for managing or supervising contracts are prohibited from either being engaged by a Council contractor or performing any works under the contract they are supervising.

7. Fair and Honest Dealing

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote. Impartiality must be maintained throughout the procurement process so that it can withstand public and audit scrutiny.

The commercial interests of existing and potential suppliers must be protected.

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

8. Accountability and Transparency

Accountability in procurement means being able to explain and evidence what decisions have been made and what has happened. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

9. Gifts and Benefits

Councillors or Council staff may be offered a gift or benefit in the course of their work.

This gift or benefit could be offered in good faith, or it could be an attempt to influence, bribe or compromise the Councillor's or Council staff member's ability to act in the public interest.

In accordance with Council's *Gifts and Benefits Policy*, no Councillor or member of Council staff shall, either directly or indirectly solicit or accept gifts or presents from any member of the public who is involved, either directly or indirectly, with any matter that is connected with the duties of the officer, or in which the Council is interested.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives or from organisations, firms or individuals with whom they have official dealings.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how insubstantial the evidence available), must be promptly reported to the Chief Executive Officer ("CEO").

10. Endorsement

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to a Director or the CEO.

11. Disclosure of Information

Information received by the Council that is Commercial in Confidence must not be disclosed and is to be stored in a secure location. Councillors and Council staff are to protect, by refusing to release or discuss information to the extent that it is Commercial-in-Confidence.

This may include:

- a) information disclosed by organisations in tenders, quotation or during tender negotiations; or
- b) pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Councillors and Council staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests. Discussion with potential suppliers during tender evaluations must not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

Discussions must not be entered into with any tendering party or its representative or agent which could have potential contractual implications prior to the contract approval process being finalised, other than pre-contract negotiations.

12. Governance Structure

The Council shall:

- a) establish a procurement management responsibility, structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle (where possible) of all goods, services and works purchased by the Council;
- b) ensure that the Council's procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required;
- c) ensure that prospective contractors and suppliers are afforded an equal opportunity to tender;
- d) encourage competition; and
- e) ensure that policies that impinge on the purchasing policies and practices are communicated and implemented.

13. Responsible Financial Management

The principle of responsible financial management must be applied to all procurement activities, including ensuring that existing funds within an approved budget, or source of funds, is established prior to the commencement of any procurement action.

Council staff must only authorise the expenditure of funds in accordance with their financial delegations as approved by the *Exercise of Delegations Policy*.

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.

Delegations define the limitations within which Council staff can make financial commitments. Delegation of procurement authority allows specified Council staff to

approve certain purchases, quotation, tender and contractual processes without prior referral to the Council or another officer.

This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity. The financial delegations for Council staff are detailed in the Instrument of Sub Delegation from the CEO.

14. Internal Controls

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

- a) there is clear accountability and responsibility for all transactions;
- b) transparency in the procurement process;
- c) a clearly documented audit trail exists for procurement activities; and
- d) appropriate authorisations are obtained and documented.

15. Risk Management

Risk management is to be appropriately applied at all stages of procurement activities ensuring sufficient planning is 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.

The provision of goods, services and works by contract potentially exposes the Council to risk. The Council will minimise its risk exposure by measures such as:

- a) standardising contracts to include current, relevant clauses;
- b) requiring security deposits or bank guarantees where appropriate;
- c) referring draft specifications to relevant experts;
- d) requiring written contractual formation before allowing the commencement of work;
- e) use of or reference to relevant Australian Standards (or equivalent); and
- f) effectively managing the contract including monitoring and enforcing performance.

All procurements are to be conducted in accordance with Council's risk framework as detailed in the *Risk Management Strategy*, *Risk Management Policy* and this Policy

16. Occupational Health and Safety

Council is committed to procurement activities that provide a safe working environment for employees, volunteers and contractors.

Council requires all its contractors and suppliers share this commitment to providing a safe and healthy environment, so far as is reasonably practicable.

All persons working with Council under a contract, agreement or other documented work arrangement, must:

- a) comply with obligations under *Occupational Health and Safety Act 2004*, Regulations, Codes of Practice, Safety Standards and contract specific requirements;
- b) demonstrate effective safety management capabilities;
- c) identify and manage risk appropriate with the identified level of risk;
- d) consult with the relevant Council representative in relation to work health and safety duties and obligations to determine how OHS responsibilities will be managed;
- e) comply with requirements for qualifications, licences and registration;
- f) comply with the Council safety procedures implemented to protect workers' health and safety;
- g) report all incidents that have or could have, affected a person's health and safety; and
- h) provide sufficient information to allow performance to be monitored.

These are mandatory requirements and non-compliance may disqualify prospective contractors and suppliers.

Council employees responsible for any procurement or contractor activities must:

- a) undertake due diligence through the i PRO LIVE system to ensure contractors and service providers within their control comply with all appropriate OH&S legislative requirements; and
- b) ensure OHS considerations of purchases are given to ensure that the goods do not pose a risk to health and safety of workers.
- c) ensure appointed contractors, their employees and any subcontractors complete the My Safety online contractor induction course prior to commencement of any works

17. Sustainable Procurement

In accordance with the *Council Plan 2013-2017*, the organisation's procurement decisions and initiatives will be based on clear and transparent evidence, informed economic, environmental and social considerations. Therefore, to achieve sustainable procurement, Council will adopt a triple-bottom-line approach by considering economic, environmental and social sustainability.

18. Economic Sustainability

Council's procurement activities will be carried out on the basis of obtaining value for money. This means minimising the total cost of ownership over the lifetime of the requirement, including disposal and end of life costs, consistent with acceptable quality, reliability and delivery considerations. Lowest purchase price is not the sole determinate of value for money. To help ensure value for money the following factors will be considered:

- a) developing, implementing and managing procurement strategies that support the coordination and streamlining of activities throughout;
- b) effective use of competition;
- c) using panel contracts under a Standing Offer Agreement where appropriate;
- d) identifying and rectifying inefficiencies in procurement processes; and
- e) developing cost efficient tender processes including appropriate use of e-solutions.

19. Environmental Sustainability

Council is committed to enhancing the environment by supporting the principles of environmentally sustainable procurement within the context of purchasing on a value for money basis

The Council aims to achieve this by:

- a) taking into account the need to minimise emissions and reducing the negative impacts of transportation when procuring goods, services and works;
- b) taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products, services and works procured;
- c) considering the environmental credibility of tenders and requiring contractors to conduct their operations in an environmentally sensitive manner;
- d) selecting products, services and works that have minimal effect on the depletion of natural resources and biodiversity;
- e) giving a preference to Fairtrade, or equivalent, and ethically sourced and produced goods and services;
- f) ensuring all relevant tender and contract documents contain sustainability specifications as appropriate to the product or service being procured;
- g) complying with all Australian legislation and ensuring Council's suppliers do the same;
- h) training all Council staff on sustainability considerations within the procurement process;

- i) applying a 10 percent price advantage to encourage the purchase of environmentally sustainable products;
- j) establishing specific programs, as a member of ECO-Buy, for:
 - i. developing and implementing an ECO-Buy action plan;
 - ii. establishing a tracking system to monitor purchasing of environmentally preferred products; and
 - iii. incorporating green purchasing into all purchasing systems.

20. Social Procurement

Council is committed to improving the quality of life in Greater Shepparton and the GVRCA community through the involvement of the community in a range of factors including the provision of goods, services and works. Council is also committed to ensuring that all views are considered through inclusive deliberation and active involvement of the community.

Social procurement will be an evaluation criteria where appropriate. The criteria may include:

- a) consulting and engaging with the community;
- b) building community involvement in the ways services are delivered or works undertaken;
- c) enhancing partnerships with community stakeholders and other service providers;
- d) providing a range of other social benefits including community amenity and public health and well-being;
- e) increasing local employment;
- f) increasing employment of people from disadvantaged backgrounds; and
- g) capacity building in the local community.

To encourage a focus on local industry, including creating local employment and improving local businesses:

- a) Council officers must seek at least one quotation from a local supplier, if available;
- b) for all tenders where the anticipated contract sum is greater than \$250,000 including GST, a local economic impact statement must be submitted by tenderers that will detail the level of local content including labour, materials, plant and supervision; and

- c) where tenders are within 5% of the weighted tender evaluation of the highest ranked tender, the tender evaluation will take into consideration the merit of local economic impact statements when assessing the preferred tender.

Local is defined as within the municipal district and for a joint tender, within the two municipal districts.

Local content includes:

- a) labour and job creation;
- b) supporting local businesses by sourcing local products and services; and
- c) skills and technology transfer.

Council, in conjunction with industry partners, will coordinate and promote information sessions which will provide guidance to business and industry regarding all aspects of procurement and tendering.

The Best Value Principles in sections 208B and 208C of provide that Council may take into account opportunities for local employment growth or retention and environmental advantages.

Council will work with existing and potential suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being considered.

21. Planning & Methodology

To ensure that goods, services or works meet the Council's needs, Procurement Plans will be prepared for all purchases greater than \$50,000 including GST.

22. Role of Specifications

Specifications used in quotations, tenders and contracts are to support and contribute to the Council's objectives through being written in a manner that:

- a) ensures impartiality and objectivity;
- b) encourages the use of reliable and proven products;
- c) encourages sustainability;
- d) reduces bureaucracy and encourages innovation; and
- e) wherever possible, specifies requirements in terms of service outcomes and key performance standards.

Whilst it may be appropriate in certain circumstances to specify inputs, care must be taken to ensure that innovative solutions will still be encouraged.

23. Purchasing Methods

Council's standard methods for purchasing goods, services and works shall be by:

- a) petty cash, or corporate credit or debit card or purchase order for low value simple purchases;
- b) purchase order following a quotation process for purchases under \$50,000;
- c) quotations using the standard quotation documents for purchase between \$50,001 and \$150,000 for goods and services and \$200,000 for works;
- d) contract following a tender process;
- e) purchasing schemes or approved suppliers including collaborative purchasing arrangements with other councils, agency arrangements (section 186{5} {b}) and Ministerial approved schemes (section 186{5} {b}) such as the Municipal Association of Victoria and Procurement Australia;
- f) the Council or the CEO may approve other methods of procurement or exemptions to this Policy due to abnormal circumstances such as emergencies, sole suppliers or interruption to a delivery of a key services, in accordance with their level of authority; and
- g) Ministerial exemptions from tendering requirements in exceptional circumstances such as natural disaster recovery or interruption to a delivery of key services.

24. Procurement Thresholds and Competition

The *Procurement Guidelines* detail the minimum spend competition thresholds and the associated procurement methods. These thresholds are determined by this Policy as set out in 25 and 26.

25. Public Tenders

A public tender process must be undertaken when purchases of goods or services may exceed \$150,000 including GST, or purchases for the carrying out of works may exceed \$200,000 including GST.

Section 186(1) of the Act (as amended and updated) requires that before Council enters into a contract for the purchase of goods or services to the value of \$150,000 or more, or for the carrying out of works to the value of \$200,000 or more, it must:

- a) give public notice of the purpose of the contract and invite tenders from any person wishing to undertake the contract; or

- b) give public notice of the purpose of the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project.

Section 186 does not require Council to accept the lowest tender or to accept any tender and does not apply if:

- a) the Council resolves that the contract must be entered into because of an emergency; or
- b) the contract is entered into with a council acting as the agent for a group of councils and the Council has otherwise complied with this Act; or
- c) the contract is entered into in accordance with arrangements approved by the Minister (eg; purchases through MAV Purchasing and Procurement Australia currently have Ministerial approval);

Section 186(6) of the Act requires that whenever practicable, a 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.

The Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders. Typically a multi-stage tender process will commence with an expression of interest (EOI) followed by a selective tender process involving some or all of the EOI respondents. EOIs may be appropriate where:

- a) the requirement is complex, difficult to define, unknown or unclear;
- b) the requirement is capable of several technical solutions;
- c) where the organisation lacks knowledge about the particular good or service being purchased and wants to be able to take advantage of information submitted in an expression of interest process;
- d) the Council wishes to consider ahead of formal tender processes such issues as whether those tendering possess the necessary technical, managerial and financial resources to successfully complete the project;
- e) tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense;
- f) it is necessary to pre-qualify suppliers and goods to meet defined standards; or
- g) the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

Where significant sums are spent which aggregate to greater than \$150,000 for goods and services or \$200,000 for works with one supplier or on one service, it is necessary to structure procurement proposals as requests for tenders or quotations to achieve greatest value and supplier performance by leveraging this aggregate spend, rather than treating each discrete arrangement as a separate procurement exercise.

There is no specific time limit applying to the length of a contract which is subject to the tender threshold. Rather, the optimum period of a contract should be first determined on the basis of value for money and the efficiency and effectiveness of the procurement.

Measures which intentionally seek to avoid the requirement to give public notice, for example contract splitting, placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to breach the requirement to call public tenders where threshold values would otherwise be reached.

26. Quotations

Purchase of goods, services and works having a total valuation of \$150,000 inclusive of GST or less, in a single contract (over the total life of the contract) or supply arrangement must be undertaken using a quotation method as described below:

- a) item of a value less than \$500 – best value;
- b) item of a value \$501 to \$10,000 - minimum one written quotation. Quotation details must be recorded in the Council's records system before placing an order. Similar details must be recorded where more than one supplier has quoted;
- c) item of value \$10,001 to \$50,000 – minimum two written quotations. Quotation details must be recorded in the Council's records system before placing an order. Similar details must be recorded where more than one supplier has quoted; and
- d) items with a value \$50,001 to \$150,000 for goods and services, or \$200,000 for works - Request for three written quotations. A minimum of three quotations is to be obtained by issuing a written Request for Quotation. Details of the suppliers contacted and their quotations must be recorded in Council's Record Management System.

Quotations returned by the nominated closing date must be evaluated and a recommendation made to consider the supplier offering the best value for money outcome.

27. Public advertising

Quotations may be advertised when judged to be sufficiently advantageous to Council. This may occur when a field of potential tenderers has not been established, an innovative approach is required or the project has broad appeal that may attract competitive prices, etc.

The relevant officer must consider the potential benefits of public tendering for any purchases over \$100,000 inclusive of GST, particularly to ensure that for any reason, such as contract variations, the contract sum does not eventually exceed \$150,000. A considered and conscious decision must be made that three quotes will still achieve the

best net value outcome. The minimum placement requirement includes use of any newspaper approved by Council for such purpose.

28. Insufficient quotations

The situation may arise where insufficient quotations are obtained to satisfy the above requirements. This may occasionally occur where there are few suppliers for the goods, services or works being sought. In this case, Director's approval is required. The details of the contacted suppliers must be recorded and an appropriate comment recorded.

In the following circumstances only one quotation may be required:

- a) in the event of emergency works for safety reasons; or
- b) when there is only one known and reputable supplier.

29. Delegation of Authority

Delegations define the limitations within which Council staff are permitted to work.

Commitments and processes which exceed the CEO's delegation and which must be approved by the Council are awarding contracts where the total contract value exceeds \$750,000 inclusive of GST.

The financial delegations allow specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to the Council.

The Council has delegated to the CEO authority to approve expenditure against approved contracts up to \$2 million (inc GST). The CEO has in turn delegated authority to Council staff. This Instrument of Sub-delegation is titled is made by the CEO under the delegation issued by Council to the CEO.

30. Quotation & Tender Evaluation

All quotations and tenders must be evaluated in a consistent manner against pre-determined and weighted evaluation criteria listed in order of importance. A weighted matrix analysis must be used for analysing and comparing tenders, and quotations in excess of \$50,000 inclusive of GST, in a detailed and consistent manner.

A formal evaluation is to be carried out for purchases that exceed \$50,000 inclusive of GST. The purpose of the evaluation plan is to define roles and responsibilities and ensure probity of the tender process.

The evaluation plan sets out the method of purchase and establishes who will be preparing the tender, the evaluation criteria, weightings and the TEP membership.

The evaluation criteria and weightings must be determined by the relevant Director and approved by the Executive prior to inviting proposals. The evaluation criteria (but not the weightings) must be included in the tender documents, in order of importance.

A due diligence analysis of the preferred or short-listed tenderers for all high value and/or highly complex projects (“major contracts”) must be undertaken to ensure that they have the capacity and stability to comply with the requirements of the contract.

A due diligence may include:

- a) a financial check through an organisation such as Corporate Scorecard;
- b) analysing recent audited financial statements; and
- c) referee checking.

Major contracts include:

- a) contracts with a value exceeding \$750,000.00 over the contract term;
- b) contracts with a relatively high level of risk (eg: financial or complex works contracts);
- c) contracts with a value exceeding the CEO’s delegation; and
- d) contracts of a sensitive nature to the community (eg: home care, open space maintenance, waste management etc).

31. Post Tender Negotiations

The objective of post tender negotiations is to obtain the optimal solution (eg Best and Final Offer) and commercial arrangements. All substantive issues must be agreed and the draft contract documentation amended to reflect the agreement. Negotiations must be mindful not to significantly alter the scope or intent of a tender or proposal. When the scope of the intent of the tender is changed by more than 20%, a new tender is required to be under taken.

The conduct of negotiations after the close of a tender or quotation as part of the process for recommending the preferred supplier may be conducted prior to entering into a contract or making a purchase. Matters for post tender negotiations may include:

1. clarifying the robustness of the lump sum price and/or schedule of rates;
2. additional value adding options;
3. specific contract management arrangements;
4. identifying key personnel for various stages of the contract;
5. intellectual property transfer opportunities; and
6. service supply arrangements.

32. Corporate Records

The officer authorised to make procurement commitments in respect of the relevant goods, services and works, will ensure timely and accurate corporate records are kept. Records shall include but not be limited to:

- a) acceptance of tenders;
- b) acceptance of quotes;
- c) TEP reports;
- d) evidence of the awarding of a contract;
- e) the contract documents;
- f) contract term extensions (within the authorised budget);
- g) contract amendments and variations (financial and non-financial);
- h) contract novations;
- i) appointment to register of pre-qualified suppliers;
- j) corporate credit and debit card purchases; and
- k) procedural exceptions.

33. Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions. The contract must be signed by the contractor and a Council representative before works or services commence.

To protect the best interests of the Council, terms and conditions must be agreed in advance of any commitment being made with a supplier. Any exceptions expose the Council to risk.

34. Dispute Resolution

Council's standard contracts incorporate dispute management and alternative dispute resolution provisions such as arbitration to minimise the chance of disputes escalating to legal action.

35. Contract Management

The purpose of contract management is to ensure that the Council, and where applicable its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

- a) establishing a system reinforcing the performance of both parties' responsibilities and obligations under the contract; and
- b) providing a means for the early recognition of issues and performance problems and the identification of solutions. All Council contracts are to include contract management requirements and quality and cost standards. Furthermore, contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure the Council receives value for money and that quality and cost standards and measurable key performance indicators are met.

36. Continuous Improvement

Council is committed to continuous improvement and will review this Policy annually, to ensure that it continues to meet the corporate objectives.

37. Policy Owner and Contact Details

The Manager Corporate Performance, is the designated owner of this Policy. For further information on the Policy please contact via email – council@shepparton.vic.gov.au or phone [03] 5832 9700.

Please note: This Policy is current as at the date of approval. Refer to Council's website (www.greatershepparton.com.au) or staff intranet to ensure this is the latest version.

RELATED PLANS, POLICIES, DIRECTIVES, GUIDELINES AND LEGISLATION

Plans

- Council Plan 2013-2017

Policies

- Councillor Code of Conduct
- Conflict of Interest – A Guide for Councillors October 2012
- Exercise of Delegations Policy
- Gifts and Benefits Policy
- Risk Management Policy
- Fraud Control Policy

Guidelines

- Procurement Guidelines

LEGISLATION

- Section 3C of the Act (objectives of a Council)
- Sections 77A, 77B, 78, 78A to 78E, 79 79B to D, 80, 80A to C and 95 of the Act (Conflict of Interest)
- Section 98 of the Act (delegations)
- Section 140 of the Act (accounts and records)
- Section 186 of the Act (power to enter into Contracts)
- Section 186A of the Act (Procurement Policy)
- Sections 208C of the Act (Best Value Principles)
- The relevant provisions of the *Competition and Consumer Act 2010*

REVIEW

Section 186A (7) of the Act requires that at least once in each financial year, Council must review the current procurement policy and may amend the procurement policy. This is the responsibility of the Manager Corporate Performance

Gavin Cator
Chief Executive Officer

Date

ATTACHMENTS

Nil