

PROCUREMENT POLICY

1.0 Purpose

City of Ballarat is required under section 108 of the Local Government Act 2020 to prepare, adopt and comply with a Procurement Policy. In accordance with the Act, the Procurement Policy sets out the key principles and processes applied to the purchases of Goods, Services and Works by Council.

2.0 Scope

This Policy will apply to Councillors, Council Staff, Contractors and Consultants and all persons undertaking procurement on Council's behalf and they are accountable for complying with all relevant procurement legislative and policy requirements.

The objectives of this Policy are to:

- Establish a procurement framework for Council to achieve value for money and continuous improvement in the provision of services for the community
- Ensure that council resources are used efficiently and effectively to improve the overall quality of life of people in the local community
- Achieve compliance with relevant legislative requirements
- Achieve high standards of probity, transparency, accountability and risk management
- Give preference to the procurement of environmentally sustainable goods, services and works wherever possible
- Where practicable, advance the use of responsibly sourced resources that have greater recycled or reused content and have a lower environmental footprint throughout their life cycle
- Support local industry that actively recycles local materials generated
- Give preference to the procurement of goods, services and works from within City of Ballarat and surrounding municipalities where price, quality, service standards and delivery is comparable to other suppliers in support of ongoing community wealth building for our city

2.1 Conduct of Councillors and Council staff / Conflict of Interest

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.

Councillors and Council Officers, must:

- Treat potential and existing suppliers with equality and fairness
- Maintain confidentiality of Commercial in Confidence matters and information such as contract prices and other sensitive information
- A Councillor 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.
- Councillors (and members of the Audit and Risk committee) must disclose a conflict of interest
- Councillors must comply with the Councillor Code of Conduct
- Councillors must not improperly direct or improperly influence a member of council staff in the exercise of any power on/ in the performance of any duty or function

- All Councillors and Staff must adhere to councils Gifts and Hospitality Policy in matters of procurement
- Councillors and staff members should make their interests known in any situation where it could be perceived that an interest might unduly influence them

Council Officers, must:

- At all times avoid situations in which private interests' conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties
- Disclose a direct or indirect interest (and the type of interest) before providing advice or reports (or any other matter)
- Not participate in any action or matter associated with the arrangement of a procurement where that person has a direct or indirect conflict as defined by the Act; and
- When becoming aware of a conflict, promptly declare the direct or indirect Conflict of Interest to the Governance Unit
- Comply with the Code of Conduct for Council Staff

Council Officers with delegated Council powers or duties are prohibited from exercising those powers, duties or functions if they have conflicts of interest.

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council/Committee at a formally constituted Council or Contracts Committee meeting to consider the awarding of a contract.

2.2 Achieving Best Value for Money

The Council's procurement activities will be carried out based on obtaining Best Value for Money. Considering the total cost of ownership over the life of the procurement consistent with acceptable quality, reliability and delivery considerations should be taken into account in relevant procurement. Lowest price is not the sole determinate of Best Value for Money.

2.3 Tender Processes

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

2.4 Influencing the Tender Process

Any attempts which may be reasonably construed as intended to influence the tender process in any way such as any direct or indirect approach by tenderers themselves or through other parties on their behalf to persons other than those nominated in the tender document will invalidate the tender of that party.

For the avoidance of doubt any Tenderer found to have:

- Offered a bribe, gratuity, bonus, discount of any sort or enticement to or otherwise attempt to influence any Council officer, Councillor or any persons who are either directly or indirectly involved in the evaluation of the Tender or in the awarding of an associated Contract; or
- Approached, discussed or solicited support for their Tender with any Council officer (with the exception of the designated Council Contact Officer) or Councillor of the Council, individually or collectively; at any time prior to the awarding of the Contract to the successful Tenderer will have their Tender excluded from the contract award process.

The tender of any tenderer which engages in conduct prohibited under section 2.4 will be deemed informal and will be rejected without further consideration.

Tenderers shall declare any actual or potential conflict of interest.

Tenderers shall not participate in collusive tendering practices or any other anti-competitive practices with any other Tenderer. Council shall take action where it becomes aware of collusive practices. Collusive practices are anti-competitive in nature and can result in criminal prosecution.

2.5 Fair and Honest Dealing

Council is committed to providing equal opportunity for all businesses, irrespective of their size and location, to bid for work through open and transparent market processes. Impartiality is to be maintained throughout the procurement process so it can eliminate the prospect of any bias in decisions and withstand public scrutiny.

2.6 Accountability and Transparency

Accountability in procurement means being able to explain and evidence the processes followed to procure goods, services and works. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

All procurement activities must be in accordance with the Act, this Policy and any related relevant Council policies and procedures.

Council may appoint an external probity advisor where the Panel under guidance of the Strategic Procurement Unit considers a proposed Procurement to be particularly complex and high risk.

2.7 Gifts and Hospitality

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 Council is interested.

Councillors and Council Officers should refer to Council's applicable Code of Conduct for more guidance regarding the declaration of gifts/hospitality.

2.8 Disclosure of Information

Information received by Council that is Commercial in Confidence must not be disclosed and must 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:

- Information disclosed by organisations in tenders, quotation or during tender negotiations
- 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 should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier

- At no stage should any discussion be entered into with any tendering party or its representative or agent that could have potential contractual implications prior to the contract approval process being finalised, other than authorised pre-contract negotiations

2.9 Borrowings

Borrowings (often referred to as loans) are not within the scope of the Procurement policy as these are considered contracts of borrowings and not contracts of goods, services or the carrying out of works. The process undertaken in sourcing borrowings will be detailed in Council's Borrowing Policy and will seek to get the best financial outcome in a transparent manner.

3 Policy Statement

3.1 Goods and Services Tax (GST)

All monetary values stated in this policy exclude GST unless specifically stated otherwise.

3.2 Responsible Financial Management

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

Funding for any procurement must be funded from an existing approved budget or have approved documented grant funding. No procurement can proceed without approved funding, unless in emergency circumstances.

Council staff must not authorise expenditure of funds in excess of their financial delegation or split funds to fit within their financial delegation. Council staff that breach their delegated authority may face action under Council's Discipline and Termination Policy. The decision to initiate disciplinary action or other action will be taken by the CEO based on a recommendation by the Director Corporate Services following consultation with the relevant Director or Executive Manager.

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

3.3 Methods of Purchasing

Once a Market Engagement Method has been determined consistent with section 3.4, Council Officers need to obtain authority to purchase the Goods, Services or Works on behalf of Council.

There are two mechanisms available to purchase goods, services or works:

- Flexi-Purchase Card or
- Purchase order following a quotation process from suppliers for goods or services that represent best Value for Money under the quotation thresholds adopted by the Council. An approved purchase order must be created prior to committing expenditure on behalf of Council for the provision of services, goods or works in accordance with the Council's procurement thresholds and guidelines.

3.4 Market Engagement Methods

Market Engagement (exclusive of GST)

Section 108 of *the Act* details that each Council will set the public tender threshold above which tenders or expressions of interest for contracts must be publicly invited.

A public tender process must be used for all procurements valued at \$300,000 (ex GST) and above.

For procurements valued under \$300,000 (ex GST), the procurement methodology and thresholds detailed below must apply.

Financial Thresholds (AUS\$ ex GST)	Requirements			
	Process Managed by	Market Engagement	Engagement Type	Documentation
< \$5,000	Business Unit	1 Verbal Quote	Purchase Order or Purchase Card to Financial Delegation	Quote details must be included in the Purchase Order remarks or the Procurement and Contract Management system
\$5,001 to \$30,000		1 Written Quote [#]		
\$30,001 to \$99,999		2 Written Quotes [#]	Purchase Order	Quotes must be registered in the Procurement and Contract Management system
\$100,000 to \$299,999		3 or more Written Quotes [#]		
> \$300,000	Procurement Unit	Tender	Contract	Evaluation Report to CEO (contracts up to \$500,000 inc GST - \$454,545.45 ex GST), Contracts Committee Report (contracts between \$500,001 and \$2,000,000 inc GST - \$454,546.36 and \$1,818,181.82 ex GST) or Council Report (contracts above \$2,000,000 inc GST - \$1,818,181.82 ex GST)

[#] A minimum of one of the quotes **must be** obtained from a local supplier/provider wherever possible.

^{##} Purchases made by Council Purchase Card shall be considered as diarised. If a Purchase Order (PO) is used, then a notation should be made in the "Workflow Comments Box" of Dynamics when the PO is being created.

3.4.1 Exemptions from Market Engagement Methods

An exemption to the Market Engagement Methods and procedures may be requested under the following circumstances:

- (a) in matters of Emergency including public health, security or safety as a result of an unforeseen event or occurrence;
- (b) where a change in supplier would necessitate the procurement of goods and services that do not meet the requirements for interoperability or interchangeability;
- (c) an absence of competition for technical reasons;
- (d) the Goods, Services or Works are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the Goods, Service or Works are to be provided or undertaken;
- (e) Section 3.4 does not apply in respect of a contract if:
 - The contract becomes novated (terminated), and
 - The original contract was entered into in accordance with section 3.4, and
 - The Council has undertaken a due diligence in respect of the new party
- (f) where the procurement is on Council's procurement exemptions list (refer to Appendix 2).

3.4.2 Threshold Margin

If an approved budget for the quotation is within 5% of the of the tendering thresholds listed at section 3.4, then the tendering requirements must be followed.

3.4.3 Payments

Payment for Works or Services will be made by the authorised council officer on submission of Tax invoices by the Contractor in accordance with Council's payment policies.

Payment of all claims shall be subject to approval by the Councils Authorised Officer. All invoices shall be submitted in accordance with the Schedule of Rates forming part of the contract. Invoices should clearly disclose schedules of rates and the approving officer should check those against any agreed rates under a contract or panel arrangement before approving the invoice.

Payment for purchases up to the individuals delegated financial authority may either be by City of Ballarat Purchase Card or through Accounts Payable (A purchase order must be raised if using Accounts Payable).

3.4.4 Prepayments

Prepayments for any goods, services or works cannot be made without the prior approval of the Director Corporate Services or the Chief Executive Officer.

3.4.5 Engagement of Agents

Third-party agents such as MAV Procurement or Procurement Australia may be approached to undertake a Tender process on behalf of Council where it can be shown that Best Value for Money would be achieved. Council may at any time opt-in to any Contracts offered by MAV Procurement or Procurement Australia. Individuals cannot commit Council to a contract without first obtaining the required approvals.

3.4.6 Collaborative procurement

In accordance with section 108(c) of the Act, Council will give consideration to collaboration with other Councils and public bodies or utilise Collaborative Procurement Arrangements (including Agency and State Government Purchasing Panels), when procuring goods, services and works in order to take advantage of economies of scale. Council Staff should consider any opportunities for Collaborative Procurement in relation to a procurement process undertaken by Council.

In accordance with section 109 (2) of the Act, the Chief Executive Officer must ensure that any report to the Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other Councils, agencies, State Government Purchasing Panels or public bodies which may be available.

When procurement is being planned, due diligence should be undertaken to evaluate if Best Value for Money can be achieved by using an Agent or a collaborative tender.

3.4.7 Cumulative Spend Analysis

Cumulative spend is based on a rolling 12-month period and will be reviewed by the Procurement Unit and reported on a regular basis to the Executive Leadership Team. Cumulative spend should not exceed the tendering threshold outlined in section 3.4.

Should the cumulative spend of any single supplier be identified to exceed the required amount to tender expenditure with that supplier (which is not under an approved contract) will be ceased immediately. A full review of the expenditure with the company will be undertaken to ascertain the reasons why.

The review shall:

- Discuss with respective officers and examine the reasons for expenditure including the potential for fraud
- Discuss with respective Officers/Business Units if tendering would offer better value for money for Council.
- Report to Executive Leadership the review outcome and recommendations

3.4.8 Panel Arrangements - Approved Suppliers

An Approved Supplier is a contractor/company that has been appointed following an open Tender process. Approved Suppliers cannot be appointed in any other manner, unless as outlined in section 3.4.9.

Unless specified during a tender process no minimum quantity of sales or turnover is guaranteed to an Approved Supplier.

The use of established panels should be transparent as suppliers appointed to the panel will have a reasonable expectation that Council will provide panel members with an equal opportunity to quote for goods, services or works. Prior to the establishment of a panel there should be clear documented methodology on how works/services are to be determined for allocation to companies appointed to the panel for the life of the panel contract. Consideration should be given to the quantity of approved companies to be appointed to maintain a workable panel.

When accessing established panel arrangements quotations should be sought consistent with the guidelines set out in section 3.4 to ensure that any procurement through panels demonstrates value for money and a competitive process.

An exception is that an Approved Supplier may be appointed directly for works up to \$50,000 where a Schedule of Rates has been provided under the terms of the panel. For procurements greater than \$50,000 the quotation requirement outlined in section 3.4 must be followed.

Council officers responsible for the contract management of panel arrangements should be mindful of day-to-day practicalities and acknowledge that a competitive public process and a value for money assessment has already been undertaken to establish the panel in the first instance. Accordingly, there may be situations where no further benefit is obtained from seeking quotations from the panel.

For example:

- Small, every-day, low risk, low value works such as those from trade services providers like electricians, plumbers; or
- Where the contract with each individual panel supplier includes a comprehensive schedule of rates covering all expected work item types so the costs for packages of work can be accurately determined beforehand by the Council officer without the need for further quotations.

In the above examples, it may be appropriate for the Council officer to allocate work across the individual panel suppliers based on their respective skill sets and capacity at the time to meet Council's required timeframes. This allocation methodology should be determined prior to the establishment of the panel.

3.4.9 Panel Arrangements - Approved Suppliers – Administration

Approved Suppliers will be appointed following a formal tender process and will be contracted for the time period as outlined in the tender specification, including any options for extensions.

Approved Suppliers should be monitored periodically (as outlined in section 3.6) to determine if such suppliers should remain on the panel. Approved Suppliers who fail to meet expectations may be removed from the Panel without notification.

Council may choose to run a tender process to add suppliers to a panel during its term, if it determines that the panel may benefit from having additional suppliers incorporated before the end of the initially advertised term.

3.5 Types of Procurement

3.5.1 Tender

Any procurement which exceeds the levels indicated at section 3.4 above must be undertaken by public tender.

Tender Process

Stage	Process
Planning	Business Case, Approved Budget and Specification of works to be completed. Project Control Group (PCG) to be established when appropriate
Registration	Request for Tender must be registered in the Procurement and Contract Management system and approved by the relevant Director prior to the time and date specified by the Procurement Unit;

Advertising	Tender advertised in a locally distributed newspaper and/or online through the E-Tender Portal. Tender documents available by registering through the E-Tender Portal, available via the City of Ballarat website.
Schedule of Rates / options	Tenders advertised for a schedule of rates and / or options are required to specify how the schedule of rates and inclusion of options across the life of the tender will be assessed to ensure a consistent approach for tenderers. The assessment criteria must demonstrate how Value For Money (VFM) will be evaluated by the panel.
Period	Tender period is a MINIMUM of three weeks (21 calendar days). Tenders lodged or received by Council after the tender closing time are deemed to be late and will be disqualified and ineligible for consideration. Except on the occasion that an electronic submission has been commenced using Council's E-Tender Portal prior to the closing date/time, and the transmission is interrupted. If the commencement of submission transfer is verified by Council's E-Tender Portal, the submission will be deemed to be received.
Evaluation	Tender submissions are provided to the evaluation panel members. Each panel member scores the submissions in the Procurement and Contract Management system independently of other evaluation panel members. Once all evaluation panel members have scored the submissions, an evaluation meeting is arranged including a representative from the Procurement Unit. Final scores are agreed and the TES Index to take in price is completed.
Approval/Award	The decision to award or not can only be made by the CEO, Contracts Committee or Council. The decision is made after consideration of the Evaluation Report.
Outcome	Once approved, the Procurement Unit notify the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.

Tender Evaluation

- A Tender evaluation panel is to be established to evaluate each tender submission against the selection criteria and its composition will be determined by the respective Director or Executive Manager. Consideration should be given to gender diversity in the makeup of the panel
- The Evaluation Panel must have a minimum of three members (minimum two Council staff) and may include external consultants who are specialist in the area
- The Evaluation Panel must have an independent (non-scoring) member as appointed by the Procurement Unit
- The evaluation process must be documented, robust, systematic and unbiased
- Once a preferred tenderer is selected negotiations may be conducted in order to obtain the optimal solution and commercial arrangements, providing they remain within the intent and scope of the tender. Such negotiations must be exhausted with one tenderer before beginning with another tenderer
- Tender evaluation panel will produce a written report of their evaluation using the prescribed evaluation template
- Tender Evaluation must be updated in the Procurement and Contract Management system Tender & Quotation Management System

All tenders are to be evaluated in a two staged process:

1. Quantitative assessment of a weighted score totalling 100%, which includes mandatory 25% for Sustainable Procurement (10% Support of Local Business, 5% Social Benefit, 5% Environmental Sustainability, 5% Aboriginal and Torres Strait Islander Procurement), and
2. Evaluation of price against weighted score
 - $TES = \text{Tendered Price} / \text{Weighted Score}$ (Tendered Price divided by Weighted Score)
 - TES (Tender Evaluation Score) is an index used to calculate the lowest score which will represent the best outcome from both the comparative scoring and price. The preferred Tenderer should be appointed based on this outcome.
 - TES is automatically generated when evaluations completed in the Procurement and Contract Management system.

Non-Conforming Tenders

Upon receipt all tender submissions will be reviewed by the Procurement Unit to ensure that required schedules have been submitted.

A tender submission will be deemed non-conforming if:

1. Required schedules have not been included or are incomplete
2. Submission has not met specification requirements
3. Tendered price is 30% or greater than the allocated budget and all other tendered prices

A tender submission may be identified as non-conforming during the Evaluation process. In this case, the evaluation panel should quarantine the submission and refer to the Procurement Unit for further review/confirmation of non-conformance.

Council may sometimes receive tenders which offer one or more alternatives, which were not sought in the tender documentation. Council should always be open to innovative proposals as they may offer excellent opportunities for improvements and are consistent with Council's ability to achieve continual improvement. Tender documentation where innovative solutions are sought should specifically invite non-conforming tenders to be submitted which Council will consider along with all other tenders.

A Tenderer submitting a non-conforming tender shall fully detail the extent of any variance from the tender documents in tender Schedule headed "Statement of Conformance". If the "Statement of Conformance" is not correctly completed the tender may not be further considered at the discretion of the evaluation panel.

3.5.2 Exemption from Tendering

Council may exempt a procurement process from a formal tender process when there are extenuating circumstances. A report must be presented to Council clearly outlining the reasons why a formal tender process should not be completed. No engagement for services or works can commence until exemption formally approved by Council.

3.5.3 Expression of Interest (EOI)

An expression of interest is a precursor to a tender. A contract cannot be awarded after an EOI without an invited tender process. An EOI is generally used to narrow the companies invited to tender. The EOI does not consider price but focuses on the quality, qualifications and expertise of submitters. Following an EOI companies meeting the listed requirements may be invited to tender.

An expression of interest should be used in circumstances where:

- there is likely to be many tenderers, tendering will be costly, or the procurement is complex
- there is uncertainty as to the interest of suppliers or vendors to offer the potential products or services or to undertake the proposed work

EOI Process

Stage	Process
Planning	Business Case, Approved Budget and Specification of works to be completed. Project Control Group (PCG) to be established where appropriate
Registration	EOI must be registered in the Procurement and Contract Management system and approved by the relevant Director prior to the time and date specified by the Procurement Unit.
Advertising	EOI advertised in a locally distributed newspaper and/or online through the Council's E-Tender Portal.
Period	There is no set period for an EOI to be advertised, this would be dependent on the information to be returned. A minimum of two weeks is suggested. EOIs lodged or received by Council after the closing time are deemed to be late and will be disqualified and ineligible for consideration. Unless an electronic submission has commenced using Council's E-Tender Portal prior to the closing date/time, and the transmission is interrupted. When the commencement of submission transfer is verified by Council's E-Tender Portal, the submission will be deemed to be received.
Evaluation	EOI submissions are provided to the evaluation panel members. Each panel member scores the submissions in the Procurement and Contract Management system independently of other evaluation panel members. Once all evaluation panel members have scored the submissions, an evaluation meeting is arranged including a representative from the Procurement Unit. Final scores are agreed.
Invitation to Tender	The decision to invite selected companies to tender can only be completed after an Evaluation Report has been completed and approved by the CEO. The Procurement Unit in liaison with the project manager will prepare Invitation to Tender and advise the successful and unsuccessful Invitees of the procurement outcome. Unsuccessful Invitees are provided an opportunity to receive feedback on their submission.
Tender procedure above is then followed	NOTE: Dependant on the information required during the Tender process the open period may be less than three weeks. The tender is not required to be publicly advertised.

3.5.4 Quotations

Any procurement which is less than the tender levels outlined in section 3.4 may be procured using a quotation.

Quotation Process

Stage	Process
Planning	Business Case, Approved Budget and Brief of works to be completed where required
Registration	All quotations must be registered in the Procurement and Contract Management system as outlined in section 3.4 above
Advertising	Quotations are not normally advertised. However, public advertising of quotations should be considered when judged to be sufficiently advantageous to Council. This will ensure transparency and best value to Council. This can be done simply through Council's E-Tender Portal.
Period	There is no set period for a quotation to be open, this would be dependent on the information to be returned. There is a need to consider the complexity of what is being procured and allow enough time for companies to adequately prepare.
Evaluation	Low value quotations below \$30,000 do not need a formal evaluation; however, staff should consider price, local content and availability prior to making a decision. Lowest price is not necessarily the best value. Quotations with a value over \$30,000 require a formal evaluation process. Refer to Evaluations section below for requirements
Approval	The decision to proceed can only be made up to the Financial Delegation of the individual. If outside an individual's delegation it must be taken to person with appropriate delegation.
Outcome	It is common courtesy to advise those companies that were unsuccessful, either by phone or email; this should be completed by the person obtaining quotations.

Insufficient quotations.

The situation may arise where insufficient quotations are received to satisfy requirements outlined in section 3.4. This may occasionally occur where there are few suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the suppliers contacted for quote must be recorded in the Procurement and Contract Management system and an appropriate comment recorded. Any evidence such as emails requesting the quote should also be recorded.

Evaluation Quotes

- An Evaluation Panel will be established for purchases over \$30,000 to evaluate each quote against the selection criteria and its composition will be determined by the respective Director or Executive Manager. Consideration should be given to gender diversity in the makeup of the panel.
- Evaluation Panel will be made up as indicated below:
 - (a) Quotes >\$30,000 and <\$100,000 must be reviewed by a minimum two Council Officers
 - (b) Quotes >\$100,000 to <\$300,000 must be reviewed by a minimum of three Council Officers and must seek approval to proceed with awarding the procurement through the Procurement and Contract Management system to the respective Executive Manager and/or Director
- The evaluation process must be documented, robust, systematic and unbiased

- Once a preferred supplier is selected negotiations may be conducted to obtain the optimal solution and commercial arrangements, providing they remain within the intent and scope of the Request for Quote. Such negotiations must be exhausted with one supplier before beginning with another.

All quotations are to be evaluated in a two staged process:

1. Quantitative assessment of a weighted score totalling 100%, which includes mandatory 25% for Sustainable Procurement (10% Support of Local Business, 5% Social Benefit, 5% Environmental Sustainability, 5% Aboriginal and Torres Strait Islander Procurement), and
2. Evaluation of price against weighted score

TES = Tendered Price / Weighted Score (Tendered Price divided by Weighted Score)

TES (Tender Evaluation Score) is an index used to calculate the lowest score which will represent the best outcome from both the comparative scoring and price. The preferred supplier should be appointed based on this outcome.

TES is automatically generated when evaluations are completed in the Procurement and Contract Management System.

3.5.5 Evaluations

Evaluation of tenders and higher value quotations must have key evaluation criteria clearly outlined in the specification/brief. There are two types of criteria:

1. **Mandatory Criteria (Pass/Fail)**
 - a. Occupational Health and Safety (see section 3.5.6 below)
 - b. Financial viability (see section 3.5.7 below)
 - c. Any other as specified in the Tender documentation
2. **Project qualitative/comparative Criteria (Scored)**

3.5.6 Mandatory Criteria - Occupational Health & Safety (OH&S)

All Tenders and quotations where works are to be completed on Council property must comply with Councils Occupational Health & Safety (OH&S) policy along with all legislative requirements.

OH&S is a mandatory evaluation criterion with a pass/fail weighting. The determination if a company meets the required standard is determined by the responses provided by the contractor from the information provided in the returned OH&S Schedule (Appendix 1) and supporting documentation.

When assessing the OH&S criteria, OH&S performance and OH&S system are weighted equally (50/50). With each criteria required to meet a minimum of >50% for each (pass/fail).

OH&S performance includes reviewing any adverse ruling, finding or enforceable undertaking in the past 5 years immediately before the procurement activity undertaken.

Specifically, whether or not the conduct highlighted in the adverse ruling, finding or enforceable undertaking was:

- isolated or systemic in nature;
- disclosed during the tender or contract period;

- whether steps have been taken by the supplier/business to rectify the conduct; and
- whether steps have been taken to prevent reoccurrence: changing systems, staff training, change in business models / approach to enhance compliance.

It is envisaged that increasing the weighting criteria on OH&S performance metric will assist to encourage greater compliance with health and safety when delivering a procurement activity.

OH&S submissions may be subject to review by the Safety Unit.

3.5.7 Assessment of Financial Capability

Where appropriate, Council will conduct an assessment of the risk associated with the failure of a contractor to meet their contractual obligation due to limited financial capacity. Potential risk should be a consideration at the time of the development of the Procurement Plan.

In assessing the potential risk, Council will consider factors including, but not limited to:

- the impact of a failure of a contractor to meet their contractual obligations;
- the overall value of the subject contract and the value of individual projects within a larger contract;
- the term of a contract;
- the availability of alternative suppliers; and
- the provision of risk mitigation measures such as deposits, bank guarantees and insurances.

If the risk assessment of the tender is deemed to be of a level where the consequence of failure or poor service delivery is potentially high, an independent financial assessment should be obtained through the Procurement Unit.

1. After evaluation, the top one or two submissions may have an independent Financial Assessment completed (this can be completed by the Procurement Unit upon request)
2. Result of Financial Assessment will be reviewed by Procurement and Finance Units and will be classified as either Pass or Fail
 - a. A pass indicates that the applicant has the financial capacity to provide procurement
 - b. A fail indicates that the applicant does not have the financial capacity to undertake the procurement
3. Dependant on the outcome of the Financial Assessment the Evaluation Panel will either finalise the evaluation process and proceed with relevant reporting, or, on the off chance Financial Assessment fail for the tested applicants; readdress the evaluation process
4. Financial Assessment should be completed prior to Recommendation being submitted for approval to the Contracts Committee or Council. If not, recommendation will be "subject to positive Financial Assessment"
5. Due to the confidentiality of the Financial Assessment the documents will be held by the Procurement Unit electronically and not distributed.

For projects where the same applicants submit and are awarded contracts regularly; the Financial Assessment process would only need to be undertaken on an annual basis. An example of this would be road works/Infrastructure.

VicRoads Pre-Approved contractors will not require a Council Financial Assessment.

A fail for either section 3.5.6 or section 3.5.7 above means the tender/quote is non-conforming and cannot proceed further.

3.5.8 Project qualitative/comparative Criteria

Evaluation criteria provide a mechanism for comparing offers through assessment of the relative worth of different submissions. The evaluation criteria for each project may address several of the below subject to actual procurement requirements:

- Previous Relevant Experience
 - a) Experience relevant to the works over past three years
- Past Performance

If past performance is to be included as a scoring criteria, equal evaluation of both internal and external performance is required to be sought by contacting provided references

- a) Past documented performance with City of Ballarat can be considered for existing providers for similar work type
- b) For all potential suppliers or for work type not previously engaged by City of Ballarat from previous suppliers, consideration should be given to relevant experience outlined with the tender submission and contact should be made with identified referees provided prior to finalising an evaluation score.
- Capability
 - a) Proposed plant and equipment
 - b) Proposed staffing levels
 - c) Management capability
 - d) Technical capability
- Capacity
 - a) Extent of sub-contracting
 - b) Ability to resource project
- Ability to adhere to the specification
- Project Timeline
 - a) Methodology/Plan including Gantt Chart
- Qualifications
- Quality
 - a) Quality of goods and services to be provided
 - b) Quality Management Plan
 - c) Quality and Audit Systems
- Risk Management
 - a) Regulatory compliance
 - b) Means of controlling quality of sub-contractors
 - c) Extent of Risk
- Human Resource Management
 - a) Compliance with pertinent legislation
- Customer Service
 - a) Processes
 - b) Complaints
- Sustainability/Environmental Outcomes

- a) Waste management
- b) Recycling
- c) Energy management
- d) Emission management
- e) Water conservation
- f) Green building design
- g) Ecologically sustainable design
- h) Sustainable supply and consumption
- Value Adding
- Social Procurement

NOTE: The criteria listed in section 3.5.8 are a guide only and selection of evaluation criteria must be specific to the project being procured.

It is important that the information requested from suppliers is sufficient to enable suitable evaluation and comparison of submissions.

The evaluation criteria should not change once the procurement documents are issued. If they are changed before the tender closes, then an addendum must be issued advising suppliers of the change. The criteria cannot be changed once submissions are received.

Wherever practical the Evaluation Criteria should be discussed and agreed with the Evaluation Panel members prior to a quote or tender being sought.

3.5.9 Weighted scoring methodology

This is the preferred method for all procurement processes. Each evaluation criterion is allocated a percentage weighting - adding up to a total of 100 per cent. Care needs to be taken to assign meaningful relative weightings.

Each qualitative criterion is allocated a score. The score is then weighted, which is calculated by multiplying the weighting factor by the score. The weighted scores can then be totalled, allowing for comparison between offers.

As a guide this method will use the below table to objectively evaluate and score each of the Project qualitative /comparative criteria.

SCORE	DESCRIPTION
0	<p>The response does not address the qualitative requirement</p> <p style="text-align: center;">OR</p> <p>The Evaluation Panel is not confident that the respondent:</p> <ul style="list-style-type: none"> • Understands the contract requirement covered by this qualitative requirement; and/or • Will be able to satisfactorily meet the qualitative requirement(s)
3	<p>The Evaluation Panel has some reservations that the respondent:</p> <ul style="list-style-type: none"> • Understands the contract requirement covered by this qualitative requirement; and/or • Will be able to satisfactorily meet the contract requirements covered by this qualitative requirement. <p><i>If Minor concern score 2. If Major Concern score 1.</i></p>
5	<p>The Evaluation Panel is reasonably confident that the respondent:</p> <ul style="list-style-type: none"> • Understands the contract requirement covered by this qualitative requirement; and/or • Will be able to satisfactorily meet the contract requirements covered by this qualitative to a reasonable requirement. <p><i>If Minor concern score 4.</i></p>
7	<p>The Evaluation Panel is confident that the respondent:</p> <ul style="list-style-type: none"> • Understands the contract requirement covered by this qualitative requirement; and/or • Will be able to satisfactorily meet the contract requirements covered by this qualitative to a high requirement. <p><i>If Minor Concern score 6.</i></p>
10	<p>The Evaluation Panel is completely confident that the respondent:</p> <ul style="list-style-type: none"> • Fully understands the contract requirement covered by this qualitative requirement; and/or • Will be able to satisfactorily meet the contract requirements covered by this qualitative to a very high requirement. <p><i>If Minor concern score 9. If Major Concern score 8.</i></p>

3.5.10 Delegation of Authority Requirement

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Procurement delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level.

As such, Council has delegated responsibilities as detailed below relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for contract management activities.

3.5.11 Delegations Reserved for Council Staff

Council maintains a documented record of Financial Delegations, identifying the Council staff authorised to make such procurement commitments in respect of goods, services and works on behalf of Council. Council staff can procure goods and services up to their Financial Delegation for the following:

- Acceptance of tenders (CEO only)
- Acceptance of Quotes;
- Contract term extensions (within authorised budget)
- Contract amendments (financial and non-financial)
- Flexi Card purchases

3.5.11.1 Delegations Reserved for the Contracts Committee / Council

Commitments and processes which exceed the CEO's delegation, and which must be approved by Contracts Committee / Council are:

- Signing of contract documents; and
- Tender recommendations and Contract approval for all expenditure as delegated by Council

3.5.12 Internal Controls

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

- A clearly documented audit trail exists for procurement activities
- Appropriate authorisations are obtained and documented
- Systems are in place for appropriate monitoring and performance measurement
- All persons engaged in procurement processes must diligently apply all internal controls.

3.6 Contract Management

The purpose of contract management is to ensure that 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:

- Establishing a system reinforcing the performance of both parties' responsibilities and obligations under the contract; and

- 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. 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 Council receives value for money.

3.6.1 Risk Management

Council will manage all aspects of its procurement processes in accordance with its adopted Risk Management Policy and in such a way that all risks are identified, analysed, evaluated, treated, monitored and communicated to the standard required by the law, in accordance with Australian Standards and Council policy.

3.6.2 Health and Safety

To ensure the health and safety of our workers and visitors, procurement will be undertaken in accordance with requirements set out in the City of Ballarat Health and Safety Management System and approved procedures (e.g., HS-12 Contractor Management / Chemical Management / Plant & Equipment) and as required by the law.

3.6.3 Supply by Contract

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

- Standardising contracts to include current, relevant clauses
- Requiring Bank Guarantees or Security Deposits where appropriate
- Referring specifications to relevant experts when deemed necessary
- Requiring contractual agreement before allowing the commencement of work
- Use of or reference to relevant Australian Standards (or equivalent); and
- Effectively managing the contract including monitoring and enforcing performance.

3.6.4 Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval to vary standard terms and conditions must be sought from the Director Corporate Services. A request for such an approval should be supported with procurement and legal advice as relevant.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose Council to risk and thus must be authorised by the appropriate member of Council staff listed in the delegation's section above.

3.6.5 Endorsement

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

3.6.6 Dispute Resolution

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action.

In the first instance any disputes should be referred to the Director Corporate Services, or to the individual appointed by the CEO if the Director Corporate Services was directly involved in the tender decision making process.

3.6.7 Variances

On occasions there may be valid reason(s) when a tendered contract needs to be varied; this variance to the contract normally comes with a cost. All claims for variances must be in writing and approved by the officer with delegated authority as set out in section 3.5.10. Any cumulative variance greater than twenty percent (20%) of the original contract price must provide written advice[#] of the variance to the following, dependant on the initial approval:

- Director
- CEO
- Contracts Committee
- Council

In circumstances where the cost of the variance(s) exceeds the allocated project budget, approval must be sought from the initial approver prior to works proceeding.

[#]This advice is for information purposes only. Works do not need to be put on hold. Variances should be entered and approved in the Procurement and Contract Management system.

3.7 Demonstrate Sustained Value, Integration with Council Strategy

Council's procurement strategy shall support its corporate strategy as outlined in the 2021-2025 Council Plan, including but not limited to those related to an environmentally sustainable future, fostering sustainable growth, conserving and enhancing our natural and built assets and meeting the needs of the local community such as:

- a healthy, connected and inclusive community
- a strong and innovative economy and city
- providing leadership and advocates for its community

This will be facilitated by:

- Developing, implementing and managing procurement strategies that support the coordination and streamlining of activities throughout;
- Effective use of competition;
- Using centralised contracts and Standing Offers Agreement where appropriate;
- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender process including appropriate use of e-solutions;
- Council staff responsible for providing procurement services or assistance within Council providing competent advice in terms of available products and agreements; and
- Working with suppliers to create relationships that are professional and productive and are appropriate to the value and importance of the goods, services and works being acquired.

3.8 Specifications

Specifications used in quotations and tenders are to support and contribute to Council's Best Value for Money objectives, and should be written in a manner that:

- Ensures impartiality and objectivity;
- Encourages the use of products that are consistently with existing standards of Council;
- Encourages sustainability (Reduce, Reuse and Recycle, Renew);
- Where practical, promotes Social Procurement including the use of Aboriginal and Torres Strait Islander owned and operated companies along with social enterprises or other social benefit suppliers
- Ensure that relevant legislation is complied with when required:
 - Gender Equality Act 2020
 - Child Wellbeing and Safety Act 2005
 - Labour Hire Licencing 2018
 - Modern Slavery Act 2018
 - Other legislation as relevant to works/services
- Eliminates unnecessarily stringent requirements; and
- Wherever possible specifies technical standards and requirements that are within the capabilities of local and other suppliers.

3.9 Performance Measure and Continuous Improvement

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally.

3.10 Sustainable Procurement Considerations

Sustainable procurement criteria is set at 25% for all tenders over \$300,000 (excluding GST), which incorporates Support of Local Business, Social Benefit, Aboriginal and Torres Strait Islander and Environmental Sustainability criteria.

The mandatory selection criteria and overall default Sustainable Procurement weighting of 25% will be:

- Support of Local Business at 10% minimum;
- Social Benefit at 5%;
- Aboriginal and Torres Strait Islander Procurement at 5%, and
- Environmental Sustainability at 5%;

Any proposed amendments to the above mandatory evaluation criteria must be documented and substantiated and have prior approval from the relevant Director prior to proceeding with an approach to market. Local content is not able to be edited below the 10% minimum weighting.

Council's supply chain has a significant material impact on the organisation's sustainability performance. Therefore, Council is committed to adopting a sustainable procurement approach that is about doing business in a way that benefits society in the longer term.

Council aims to purchase environmentally preferred products should they achieve an equivalent function. Assessment shall ensure real and long-term value for money from procurement decisions and procurement processes including consideration of the total cost to

society, the environment and our economy over the entire life cycle of a purchased product or service.

Within this context Council officers should therefore consider the following environmental sustainability criteria when making purchases and specifying tender evaluation criteria:

Reduce, reuse, recycle and renew

- Avoid unnecessary purchase of goods, services or works through identifying ways to carry out a function or task without using materials that generate waste (e.g., sending information via email instead of paper) and checking stores and other Departments for excess goods.
- Select products that reduce the amount of materials required such as packaging and consumables.
- Seek to re-use items where possible and extend the useful life of products and equipment through maintenance and repair or re-allocation.
- Seek to buy recycled/part-recycled products that optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.
- Minimise energy consumption and greenhouse gas emissions
- Select electrical and gas-powered products which are energy efficient. For all product categories covered under the Australian Government's Equipment Energy Efficiency rating scheme (e.g., televisions, refrigerators, dishwashers, computers/monitors, air conditioners, washers/dryers) prefer products that are within one star of best available rating. Refer <http://www.energyrating.gov.au/>
- Select fuel efficient products
- In addition to operational energy efficiency, consider the energy and water requirements of a product during its production, transportation and eventual disposal.

Minimise habitat destruction

- Purchase paper and wood products obtained from recycled, plantation, salvaged or renewable sources.

Minimise toxicity

- Purchase materials and products (e.g., Paints, cleaning products, herbicides, asphalt, building materials) that minimise or eliminate use or release of toxic substances that can affect human health and pollute water, land or air at any stage of their life cycle.

Minimise use of potable water

- Select products that conserve water or use water in an efficient way. For products covered under the Australian Government's Water Efficiency Labelling and Standards (WELS) scheme (e.g., Taps, toilets/urinals, dishwashers) prefer products that are within one star of best available. Refer <http://waterrating.gov.au>

Green the supply chain

- Where practical develop tender, quotation and contract specifications that encourage suppliers to adopt good environmental and management practices that also respect the rights of all employees and the local community.

3.11 Support of Local Business

Council is committed to buying from local businesses where such purchases may be justified on Best Value for Money grounds.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within the Ballarat Region defined as being within the boundaries of the following municipalities:

Ararat Rural City Council	Golden Plains Shire Council	Moorabool Shire Council
Ballarat City Council	Hepburn Shire Council	Pyrenees Shire Council

Council will also seek from prospective suppliers/contractors where applicable what economic contribution they will make to the Ballarat region. All tenders/quotes are to include a minimum ten percent (10%) evaluation allowance for local content businesses.

The Local Content component of the evaluation criteria will be scored as below:

Local Presence – in the form of depot/retail outlet/warehouse/office etc. within the specified group of municipalities.

Score	Judgement
3	Locally owned/operated business
2	Local presence but not owned locally
1	Physical presence within the State of Victoria

Economic Benefit – Average percentage (%) of combined labour, materials, plant and equipment sourced from within the specified group of municipalities.

Score	Definitive	Average Percentage
7	Excellent	95 to 100%
6	Very Good	90 to 94%
5	Good	80 to 89%
4	Average	60 to 79%
3	Below Average	40 to 59%
2	Inadequate	20 to 39%
1	Deficient	1 to 19%
0		0%

Local Content Score = Local presence + Economic benefit

Council will endeavour to obtain quotes from local suppliers wherever possible, if two or more quotes are required then a minimum of one should be from a local supplier. If this is not possible, the purchasing officer will advise the Economic Development Unit so that supply gaps can be tracked and matched with future business opportunities.

Council maintains the right to request information to substantiate/verify that the value of local spend conforms with the Contractor's tender submission. For example, by requesting the

Contractor to identify and substantiate local spend amounts and/or percentages within contract invoices submitted for payment.

3.12 Social Benefit Procurement

Social Benefit Procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works. For Local Government, Social Benefit Procurement builds on initiatives already undertaken by the sector in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities.

Social Benefit Procurement is a key mechanism by which to generate wider social benefits by providing a mechanism for linking and integrating social and economic agendas.

City of Ballarat supports Social Benefit Procurement when engaging local suppliers, contractors and/or service providers. Council may engage with any of the groups below when:

- (a) advantageous to a specific procurement,
 - (b) is within threshold requirements as outlined in section 3.4; and
 - (c) the required works or services provide best value for money.
- Employment of groups with entrenched disadvantage
 - Use of Aboriginal and Torres Strait Islander owned and operated companies
 - Social Enterprises
 - Disability Enterprises
 - Employment of Apprentices
 - Employment of recognised Youth Traineeships
 - Employment of Youth labour
 - Benefits to local community

The mandatory selection criteria and overall default for sustainable procurement weighting that is applicable:

- Local content at 10% minimum; and
- Social Benefit at 5%;

3.13 Diversity

Promoting equality through procurement can improve competition, best value, the quality of public services, satisfaction among users and community relations. It should be a consideration in every procurement activity and reflect corporate commitment to diversity and equal opportunities wherever possible.

City of Ballarat recognises the importance of having a diverse supplier base that reflects the breadth of our clients and the Victorian community.

Diversity and inclusion in procurement can refer to diverse suppliers, for example indigenous, culturally diverse, disability or gender diverse suppliers or can refer to generic suppliers providing consideration of the needs of diverse groups.

The mandatory selection criteria and overall default sustainable procurement weighting that is applicable includes:

Local content at 10% minimum;

Social Benefit at 5%;

Aboriginal and Torres Strait Islander Procurement at 5% in support of the Reconciliation Action Plan

3.14 Supply Market Development

A wide range of suppliers should be encouraged to compete for Council work. The focus for new work need not always be with familiar businesses. Other types of organisations, offering business diversity include:

- Local suppliers
- Green suppliers
- Small to medium sized enterprises (SME's)
- Social enterprises
- Aboriginal and Torres Strait Islander owned and operated companies
- Voluntary and community organisations

4 Supporting documents and references

4.1 Legislation

- Child Wellbeing and Safety Act 2005
- Gender Equality Act 2020
- Labour Hire Licencing 2018
- Local Government Act 2020
- Modern Slavery Act 2018
- Privacy and Data Protection Act 2014

4.2 Associated Documents

- Councillor Code of Conduct
- Employee Code of Conduct
- Gift and Hospitality Procedure
- Social procurement (localgovernment.vic.gov.au)

4.3 Charter of Human Rights Compliance

Council will ensure that all its procurement operations are fully consistent with the prescribed rights and responsibilities and that they respect the fundamental rights within the Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic).

4.4 Definitions

Act (The):	Local Government Act 2020 (as amended)
Advertised	An advertisement in a locally distributed newspaper and/or included on Council's E - Tender Portal
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party eg: discounts, rebates, profits, methodologies and process information. It is information provided for a specific purpose that is not to be used for any other purpose than set out in the initial document

<i>Conflict of Interest</i>	In Victorian local government, the law provides that a staff member holding a delegation or advising council, or a special committee has a conflict of interest which they must disclose in writing when they have a personal or private interest of the type specified in the legislation
<i>Contract</i>	An agreement between two or more authorised persons on behalf of their organisations to perform or not perform a specific act/s that is enforceable in law. A contract may be verbal or written or inferred by conduct.
<i>Contract Documents</i>	Documents construed together as an instrument of contract. They may include terms & conditions, specifications, drawings, tender responses, delivery schedules and payment schedules.
<i>Contract Management:</i>	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
<i>Contractor</i>	Respondent (person, firm etc) whose tender/quotation offer has been accepted by the council with or without modification.
<i>Council Staff:</i>	Includes full time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.
<i>Emergency</i>	<ul style="list-style-type: none"> • Any urgent circumstance which may present a risk to public health and/or safety • The failure of a 'key service provider' • Significant damage to a municipal asset (where it is no longer safe) • Major business disruptions such as an extensive IT failure resulting in a loss of services to the community
<i>Evaluation Criteria</i>	The criteria used to evaluate the compliance and/or relative ranking of tender responses. All evaluation criteria must be clearly stated in the request documentation and discussed with Evaluation Panel members prior to tender release.
<i>Expression of Interest:</i>	A response to an open approach, usually by public advertisement, to the market requesting submissions from prospective suppliers interested in procurement. The list of potential suppliers who have provided expressions of interest may be used as the basis for conducting a select tender process.
<i>Late Tender</i>	A late tender is one that it is not received prior to the advertised closing date/time.
<i>Local Content</i>	<p>Defined as labour, materials, plant and supervision which are sourced from within the following municipalities:</p> <ul style="list-style-type: none"> • Ararat Rural City Council, • Ballarat City Council, • Golden Plains Shire Council, • Hepburn Shire Council, • Moorabool Shire Council, • Pyrenees Shire Council.

Prepayment	A payment made for goods/services prior to any works being undertaken.
Probity:	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.
Procurement:	Procurement is the whole process of acquisition of goods, services and works. It can include planning, design, standards determination, specification writing, preparation of quotation and tender documentation, selection of suppliers, financing, contract administration, disposals and other related functions. 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.
Social Enterprise	A commercially viable business existing to benefit the public and the community, rather than shareholders and owners.
Social Procurement	The procurement of goods and services by Council that seeks to contribute to the future sustainability of communities and to improving the quality of life of their constituents by procuring goods or services in a manner that seeks to strategically address particular social issues in the community.
Specification	The statement which clearly and accurately describes the essential requirements for goods, services or works. It may also include the procedures by which it will be determined that the requirements have been met and performance required in a contract
Standing Offer Agreement	A contract that sets out rates for goods and services that are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
Sustainability:	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs, while creating resilient and prosperous communities and protecting the environment.
Tender	An offer in writing to supply goods and/or services, usually submitted in response to a public or selective invitation such as a Request for Tender
Tender Process:	The process of inviting parties to submit a quotation or tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Treatment of GST	All monetary values stated in this policy exclude GST.
Value for Money (VFM):	Value for Money in Procurement is about selecting the supply of goods, services and works considering both cost and non-cost factors including: <ul style="list-style-type: none"> • contribution to the advancement of the Council's priorities, including support of local businesses • non-cost factors such as fitness for purpose, quality, service and support; and cost-related factors including whole-of-life costs and

transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

Variance Is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of work.

5 Policy owner

The owner of this policy is the Chief Executive Officer.

Enquiries regarding this policy should be directed to Council's Procurement Unit.

6 Authorisation

Adopted by Ballarat City Council on 26 April 2023

This Policy came into effect on: 1 July 2023

7 Administrative updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

Appendix 1: Occupational Health & Safety Schedule

		YES	NO
1.1	Does your organisation have >\$20 Million Public Liability Insurance ? If Yes, please provide a copy of Certificate of Currency	<input type="checkbox"/>	<input type="checkbox"/>
1.2	Where applicable to the works or services being provided does your organisation have Product Liability Insurance ? If Yes, please provide a copy of Certificate of Currency	<input type="checkbox"/>	<input type="checkbox"/>
1.3	Where applicable to the services being provided, does your company have Professional Indemnity Insurance ? If Yes, please provide a copy of Certificate of Currency	<input type="checkbox"/>	<input type="checkbox"/>
1.4	Is your organisation WorkCover Certified ? If Yes, please provide a copy of Certificate of Currency	<input type="checkbox"/>	<input type="checkbox"/>
1.5	Does the works being tendered for require High Risk Licences? If Yes, please provide copies.	<input type="checkbox"/>	<input type="checkbox"/>

		YES	NO
2.1	Do you currently have an accredited OH&S System to AS/NZS 4801, OHSAS 18001 or ISO 45001 ? If Yes, please provide a copy of your certification and evidence of most recent audit	<input type="checkbox"/> 15 Points	<input type="checkbox"/> 0 Points

If yes to question 2.1, move to section 4;
If no to question 2.1, move to section 3

		YES	NO
3.1	MANDATORY - Do you have an Occupational Health & Safety Policy? If Yes, provide a copy of the policy	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.2	Do you have and use an OH&S Manual or Work Plan? If Yes, provide a copy of the front page and contents page	<input type="checkbox"/> 2.0 Points	<input type="checkbox"/> 0 Points
3.3	Do you use a SWMS (Safe Work Method Statement), JSA (Job Safety Analysis) or SOP (Safe Operating Procedure) for the proposed works? If Yes, please provide a copy.	<input type="checkbox"/> 1.5 Points	<input type="checkbox"/> 0 Points
3.4	Are records kept of operator training, inductions and competencies, such as licences and qualifications? If Yes, please provide a register of relevant qualifications and Licenses	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.5	Do you have and use procedures for identifying, assessing and controlling manual handling risks? If Yes, please provide a copy of procedure.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.6	Do you have and use procedures for storing and handling hazardous substances? This also includes office-based substances. If Yes, please provide a copy of hazardous substance register.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.7	Do you have a Roles & Responsibility Plan? If Yes, please provide a copy.	<input type="checkbox"/>	<input type="checkbox"/>

		0.5 Point	0 Points
3.8	Is there a formal mechanism for OH&S consultation in your Organisation? If Yes, please provide a copy of recent OH&S minutes or toolbox meeting.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.9	Do you have and use procedures by which employees can report hazards? If Yes, please provide details below and a recent example.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.10	When a hazard is identified, do you conduct a risk assessment of that hazard? If Yes, please provide a copy of your Risk Assessment form.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.11	Do you have an Incident Investigation Procedure and Incident Reporting form? If Yes, please provide a copy of each.	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points
3.12	Do you use Equipment inspection checklists? If Yes, please provide a copy of inspection checklist.	<input type="checkbox"/> 1.5 Point	<input type="checkbox"/> 0 Points
3.13	Do you use workplace inspection checklists? If Yes, please provide a copy of inspection checklist.	<input type="checkbox"/> 1.0 Point	<input type="checkbox"/> 0 Points
3.14	Does your business have and use any permit to work systems? <i>For example, hot works, electrical isolation and working at heights etc.</i> If Yes, please provide an example of a recent permit.	<input type="checkbox"/> 1.0 Point	<input type="checkbox"/> 0 Points
3.15	Do you have elected Health & Safety Representatives (HSR)? If so, please provide names(s) and details of initial training and any refresher training, if not listed in training register from 6.3	<input type="checkbox"/> 0.5 Point	<input type="checkbox"/> 0 Points

		Number	Points
4.1	Have you had any prosecutions for breaches of the OH&S Act 2004 in the last 5 years? Provide details:	0 1 2+	3 1 0
4.2	Have you had any enforceable undertakings in the last 5 years? Provide details:	0 1 2+	3 1 0
4.3	How many improvement notices or prohibition notices have you had in the last 5 years? Number:	0-9 10-19 20+	3 1 0
4.4	*Have all matters subject of prosecutions, enforceable undertakings, improvement or prohibition notices, stop work orders been addressed with appropriate controls? *Evidence may be requested to demonstrate action taken to achieve full scoring.	Yes Partial No	6 1-5 0
		Total =	

*Assessment of OH&S performance should consider specifically whether or not the conduct highlighted in the adverse ruling, finding or enforceable undertaking was:

- isolated or systemic in nature;
- disclosed during tender or contract period;
- whether steps have been taken by supplier/business to rectify the conduct; and
- whether steps have been taken to prevent reoccurrence: changing systems, staff training, change in business models / approach to enhance compliance.

All OH&S submissions may be subject to review by the Safety unit.

Appendix 2

Exemptions for obtaining Quotes:

A copy of completed (signed) Procurement Exemption to be forwarded to Procurement Unit for further reporting to Risk and Audit Committee.

All areas of expenditure identified below are exempt from the requirements of section 3.4 of this policy. However, transactions must still comply with the tendering threshold.

- **Shop Supplies** - Units of the City that operate a retail outlet and are required to purchase stock for resale to the public. Goods purchased for the purpose of resale are exempt from obtaining quotes. This is due to the nature of the goods that are offered for resale, which may be of a unique nature.
- **Performers/Events** – Where Performers and ticketed events are sourced for resale and these performances/events will return an income to the City of Ballarat quotations are not required.
- **Artworks and transportation of Artworks** - The City is in a unique position of operating an Art Gallery. It is not practical to obtain quotes for the purchase of artworks as each piece of work is unique. These Items are to be purchased within annual budget restraints. If an artwork is commissioned to be created, then this exemption does not apply, and quotations/tender must be sought. Artworks are often borrowed from or loaned to other Galleries and the transport of Artworks is a specialised service with a limited number of reputable providers. Some Galleries specify the company that must be used.
- **Sole Supplier (Core Service)** - The City deals with several core service sole suppliers where there is no market to test and obtain multiple quotations. Examples of core service sole suppliers are:
 - (a) Professional membership payments and subscriptions (must relate to position held at the City);
 - (b) Where the supplier is the sole source of specific intellectual property;
 - (c) Ongoing computer software licences; and
 - (d) Advertising (newspapers, magazines, TV, radio and Social Media (e.g., Facebook and similar);
- **Plant and Equipment Servicing and Spare Parts** - plant and equipment purchased by the City require servicing at regular intervals. To maintain a valid warranty, works need to be carried out by recognised suppliers using genuine parts.
- **Emergency Situations** – If the CEO or delegated key emergency management employees have determined that an emergency exists, purchases may be made without the need to initially follow policy during the emergency. Emergency situations may arise due to unforeseen events or occurrences relating to, but not limited to life threatening situations, genuine concerns for public safety, security, building specific critical works, loss of essential services and, invoking an emergency response plan.
- **Direct purchasing of goods and services from Aboriginal and Torres Strait Islander businesses where the estimated value of the procurement is up to \$50,000.** The identified business must be registered with Supply Nation or be at least 50% Aboriginal or Torres Strait Islander owned and where Value for Money can be achieved.
- **Direct purchasing of goods and services from Social Procurement businesses where the estimated value of the procurement is up to \$50,000.** The identified business must be certified with Social Traders or are businesses that trade to intentionally tackle social problems, improve communities, provide people with access to

employment and training, or help the environment. Must be not for profit and Value for Money must be the final consideration.

- **Professional services unsuitable for tendering** - Legal Services, Insurances
- **Payroll expenses** - Superannuation and PAYG
- **GST** - Goods and Services Tax payable
- **Postage** - Australia Post
- **Vehicle registrations** - VicRoads vehicle registrations
- **Councillor expenses** - Allowances and Reimbursements
- **Levies** - EPA Victoria Levy, Fire Services Property Levy
- **Acquisition of Land and Buildings**
- **Medical expenses**
- **Venue hire**
- **External audit fees** – Victorian Auditor General’s Office
- **Professional workshop and conference registration fees** and associated costs
- **Other circumstances when authorised by the CEO or Director of Corporate Services** on receipt of a compliant Procurement Exemption request.

Appendix 3:**Transactions exempt from requiring a Purchase Order:**

- Payment request forms
- Utilities –Gas, Electricity and Water only.
- HMT/Civic Hall Acquittal's
- Workcover/medical Expenses
- Police Checks
- Legal/Insurance expenses
- Insurance
- Auditors
- Transfer of Long Service leave
- Telstra
- Physio, Lake Health Care Group
- Memberships
- Subscriptions
- Donations (Staff Fundraising including causal clothes day)
- Pathway Refunds
- Debt Collection
- Rent
- Arch of Victory invoices
- Community Grants/Strategic Partnerships