

PROCUREMENT POLICY

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1 INTRODUCTION

Section 108 of the *Local Government Act 2020* (the Act) requires councils to adopt a Procurement Policy which specifies the principles, processes and procedures applicable to the purchase of goods, services and works by Council.

This policy seeks to promote open and fair competition and the provision of value for money in all of Council's procurement and purchasing activities. The policy specifies:

- a. Council thresholds for competitive tender.
- b. Criteria used to evaluate whether a contract provides value for money.
- c. Description on how Council will seek to collaborate with other councils and public bodies
- d. Conditions under which Council may purchase goods and services without a public tender of Expression of Interest (EOI) process.
- e. Description of the process to be undertaken in inviting a public tender of EOI.

Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services, or the carrying out of works.

1.1 Scope

This policy applies to all procurement and purchasing activities at the Pyrenees Shire Council and is applicable to all Councillors, Council Officers and all persons undertaking procurement on behalf of Council.

The scope of the policy commences from when Council has identified a need for procurement, continues through to the delivery / completion of the awarded contract, the management of the contract and contract closing.

1.2 Purpose

The purpose of this policy is to:

- provide a clear and compliant procurement framework for the Pyrenees Shire Council to achieve value for money and consistency in the procurement of goods, services and works,
- demonstrate good procurement governance,
- assist in advancing Council's sustainability and social objectives,
- ensure continuous improvement in the provision of services for the community, and
- ensure that Council resources are used efficiently and effectively.

This policy enables Council to:

- a. **Meet legislative requirements** – enables compliance with the Act.
- b. **Deliver best value outcomes** – effectively procure items while delivering best value to the Council and its community.
- c. **Ensure ethical conduct, accountability and transparency** – procurement must be conducted ethically to the highest standard of integrity.

- d. **Manage risk management factors and ensure continuity of supply** – relevant risks must be considered to ensure continuity of supply of goods and services to Council.

2 PROCUREMENT METHODOLOGY AND THRESHOLDS

Wherever it would likely achieve best outcomes, procurement will be arranged under a relevant contractual arrangement. In every procurement activity, all practical efforts will be made to consider the sustainable procurement considerations as listed in section 3.2 of this policy. Council will invite offers from the supply market for goods, services and works in accordance with this policy.

The procurement methodology is dependent on the value threshold and/or risk of the purchase as shown below. The value threshold to determine the methodology is the total accumulated spend for the procurement, including any anticipated variations for the procurement activity.

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

All procurement methods are subject to the authorised procurer having sufficient financial delegations in place.

2.1 Procurement methods

Council's standard methods for procuring goods, services and works will be by any of the following, in accordance with the monetary thresholds detailed in section 2.2:

- Purchase order following a quotation process
- Under contract following a quotation or tender process
- Using collaborative procurement arrangements
- Multi-stage tenders commencing with an EOI followed by a tender process
- Under a sole-sourcing arrangement in line with the conditions contained in section 3.5
- Purchasing cards, and/or
- Petty cash

unless other arrangements are authorised by Council or under appropriate delegated authority on an 'as needs' basis as required by abnormal circumstances such as emergencies.

Council's procurement through purchase order must be done via the electronic purchasing system.

2.2 Procurement approach - monetary thresholds

The following methodology thresholds do not preclude procurement via Expression of Interest or Tender for procurement of less than \$300,000 if considered appropriate to ensure meeting the Procurement Principles.

The threshold to determine the procurement approach must allow for the potential accumulated spend with the supplier across the same project or initiative across an example period of three years. The value of the accumulated spend determines the procurement approach.

\$0-<\$250

- May be procured via Council purchasing card or by next section below

\$0 - <\$10,000

- Procure via purchase order and pay on invoice
- It is recommended that a quotation or estimate be obtained prior to purchase order to allow for budgeting and invoice checking purposes

\$10,000 - <\$50,000

- Obtain a minimum of two written quotations
- Procure via purchase order to preferred quoter
- Quotations to be retained on file for future audit
- Director exemption must be sought from requesting two quotations

\$50,000 - <\$100,000

- Obtain a minimum of three written quotations
- Address any risk issues including OHS
- Procure via purchase order to preferred quoter
- Quotations to be retained on file for future audit
- Director exemption must be sought from requesting three quotations

\$100,000 - <\$300,000

- Obtain a minimum of three written quotations
- Address any risk issues including OHS
- Procure via purchase order to preferred quoter
- Quotations to be retained on file for future audit
- CEO exemption must be sought from requesting three quotations

>\$300,000

- Must be undertaken through a Request for Tender or Expression of Interest process
- Address any risk issues include OHS
- Relevant Director **AND** CEO approval must be sought for exemption to undertaking an open tender or EOI process.
- Approval for procurement or contract acceptance must be conducted through Council resolution, even if a tender process has not been entered.

2.3 Aggregate spend

As detailed in the thresholds above, procurement of all goods, services and works for which the estimated expenditure is above \$300,000 (inclusive of GST) must be undertaken by

public tender and approval through Council resolution. This requirement includes any aggregate expenditure of smaller projects with the same supplier.

Where aggregate spend over a period of 12 months with a single supplier exceeds the thresholds above, documented consideration must be undertaken as to what approvals are required to gain endorsement of continued spend with that supplier.

Checks will be made periodically on aggregate spend, by the Executive Leadership Team, to ensure compliance with this clause.

2.4 Contract variations

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract. This will depend on factors like:

- The monetary value of the proposed variation – i.e., the value of the variation in the context of the thresholds fixed by the procurement policy, and
- The subject matter of the proposed variation and whether it is consistent with the scope of the original contract.

Contract variations must be approved by the Project sponsor and budget must be available for the variation.

For contracts over \$300,000, when the accumulated variation value for a contract will exceed 20% of the initial awarded contract value, approval must be sought from the Chief Executive Officer to proceed with the variation in consultation with Council. The Chief Executive Officer must also ensure that budget is approved for all variations. A formal Council resolution may be required for approval.

2.5 Exemptions to the procurement methodology

The following written authority must be used for exemptions to the procurement methodology where the exemption is justified:

- Director exemption must be sought from the requirement to request two quotations.
- Director exemption must be sought from the requirement to request three quotations.
- Director and Chief Executive Officer exemption must be sought from the requirement to undertake an open tender process.

The following circumstances are exempt from the general publicly advertised tender, quotations and expression of interest requirements:

A contract made because of genuine emergency or hardship	Where Council has resolved that the contract must be entered into because of an emergency (e.g., to provide immediate response to a natural disaster, declared emergency etc).
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A contract made with, or a purchase from a contract made by another government entity, government-owned entity or other approved third party	<p>This general exemption allows engagements:</p> <ul style="list-style-type: none"> • With another government entity or government owned entity. E.g., Federal, State or Local Government or an entity owned by the Federal, State or Local Government, and/or • In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g., Local Buy), Procurement Australia (PA).
Extension of contracts while Council is at market	<ul style="list-style-type: none"> • Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected. • This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.
Professional services unsuitable for tendering	<ul style="list-style-type: none"> • Legal services • Insurance
Novated contracts	Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party.
Information technology resellers and software developers	Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
Regional Waste and Resource Recovery Groups	Situations where a Regional Waste and Resource Recovery Group constituted under the <i>Environment Protection Act 1970</i> has already conducted a public tender for and on behalf of its member councils.
Statutory compulsory monopoly insurance schemes	<ul style="list-style-type: none"> • Motor vehicle compulsory third party • WorkCover
Operating leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.
Other specific Council exemptions	As defined elsewhere in this policy.

A details list of exemptions is available in [Appendix A](#).

2.6 Insufficient quotations

The situation may arise where insufficient quotations are received to satisfy the above requirements. 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 contacted suppliers must be recorded along with an appropriate comment and approval from the relevant Director or Chief Executive Officer.

2.7 Sole or select sourcing

Any procurement where a supplier is a monopoly or has sole ownership or rights over a service, assets or goods and its use, or is mandatory for use by Council, is exempt from the procurement thresholds and direct negotiations can be undertaken. This specifically applies to:

- Utilities such as Powercor that are mandated to work on their own assets.
- Transport and transport assets such as V-Line and VicTrack.
- Propriety software and related proprietary maintenance of that software such as Microsoft.
- Maintenance that is propriety to an asset and can only be performed by a sole supplier.

Approval of such suppliers for exemptions (ongoing) must be obtained from the relevant Director.

Supply of goods, services or works can be sought from one supplier (sole sourcing) or a restricted group of suppliers (select sourcing) where it is consistent with this procurement policy and:

- it is in the public interest,
- there is one or a limited number of available tenderers in the market or suppliers able to submit quotations, or
- Council is party to a joint arrangement where Council jointly owns the intellectual property with a third-party provider.

2.8 Collaborative procurement

Where practicable, Council will collaborate with other councils, other levels of government, and/or public agencies in order to take advantage of economies of scale, explore service design best practice, shared service opportunities and services plus drive innovation with suppliers.

Council staff must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council. Any Council report that recommends commencing a procurement process must set out information relating to opportunities for collaborative procurement, if available, including:

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

In particular, Council will consider opportunities with councils within the Grampians / Central Highlands local government regions where similar geographical and population interests may exist.

Where a collaborative procurement opportunity is pursued, the following must be followed:

- a. A pre-market approval submission will be submitted to each participating council prior to commitment to collaboration, seeking delegation of contract approval to CEOs,
- b. The Lead Council for the procurement should be identified and a Heads of Agreement established that gives authority for the lead council to act as each Council's agent in the collaborative procurement process,
- c. Each of the participating councils will be able to enter into a contract with the preferred supplier identified through the collaborative procurement process, or may choose as a group to enter into a contract using 'jump in / opt in' contract provisions during the contract term, or with the council which conducted the public tender, and
- d. Each participating council must be involved in:
 - The initial decision to undertake the collaborative procurement,
 - Preparation of, and agreement to, the specifications,
 - Ensuring probity for the collaborative procurement, and
 - The acceptance of tender(s) and awarding of contract(s).

Council may also collaborate with other councils, levels of government or other bodies such as State Government Contracts (e.g., fleet), MAV Procurement or Procurement Australasia to procure goods, services or works, or utilise existing collaborative procurement arrangements established through a public tender process where it provides an advantageous, value for money outcome for Council.

Federal or State Government granted funded projects may be excluded from collaborative procurement.

3 PROCUREMENT PRINCIPLES

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

- Value for money
- Sustainability (social, economic and environmental),
- Open and fair competition,
- Accountability,
- Risk management,
- Local economic benefits, and
- Probity and transparency.

3.1 Value for money

When evaluating a procurement proposal, value for money is the primary evaluation objective taking into account both cost and non-cost factors (not necessarily the lowest cost). This could include:

- Tendered price.
- Ensure the product and/or service is fit-for-purpose.
- Quality.
- Service and support for the life of the product or service.
- Whole of life cost.
- Any mandatory compliance criteria (e.g., OHS, Fair Work Act).
- Capacity or capability of the tenderer to provide the goods and/or services and/or works.
- Demonstration of sustainability.

Evaluation criteria for tenders should be confirmed in the tender / procurement preparation documentation.

3.1.1 Achieving value for money

Council's procurement activities must be carried out on the basis of obtaining value for money. This means minimising the total cost of ownership over the lifetime of the contract consistent with acceptable quality, reliability and delivery considerations. This will be facilitated by:

- Achieving continuous improvement in procurement activity in accordance with the direction set out in Council's Council Plan and supporting strategic plans,
- Developing, implementing and managing processes that support the coordination and streamlining of activities throughout the procurement lifecycle,
- Effective use of competition,
- Using existing Council contractual arrangements or collaborative procurement arrangements where appropriate,
- Identifying and rectifying inefficiencies in procurement processes,
- Developing cost efficient tender processes,
- Council staff responsibility 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, productive and are appropriate to the value and importance of the goods, services and works being acquired.

3.2 Sustainability

Sustainable procurement involves decision-making that has the most positive environmental, social and economic impacts possible across the entire lifecycle of goods, services and works.

Council demonstrates sustainable procurement by:

- Being accountable for its impacts on society, the economy and the environment including the impacts of the organisation’s supply chain,
- Examining anticipated organisational, project and/or community needs,
- Continually improving sustainability specifications, practices and outcomes, and
- Planning and undertaking sustainability evaluations as part of contracting activities.

Pyrenees Shire Council aims to strategically use procurement to drive sustainability outcomes. Depending on the nature of the procurement, Council will explore opportunities to engage suppliers who will help to achieve Council’s sustainability priorities and outcomes.

The following economic, social and environmental considerations have been determined in line with these priorities:

Economic sustainability:	<p>Support Council’s COVID-19 recovery efforts and ongoing economic development priorities by supporting local businesses, suppliers, small businesses and start-ups, by:</p> <ul style="list-style-type: none"> • Increase purchasing from businesses located in the Pyrenees Shire • Increasing the use of local suppliers as sub-contractors • Increasing generation of local employment • Increasing support for local production and manufacturing • Fostering innovation and emerging sectors • Building relationships and encouraging purchasing from start-ups and small businesses to help build their capacity
Social sustainability:	<p>Elevate the inherent social value of doing business, and in particular strengthen and build the economic growth of local Aboriginal Communities, by:</p> <ul style="list-style-type: none"> • Recognising the value that Aboriginal businesses can bring through new procurement relationships and opportunities • Increasing procurement from Pyrenees Shire based Aboriginal businesses, in particular those registered with traditional owners of lands that make up the Pyrenees Shire • Increasing the use of Aboriginal businesses as sub-contractors • Increasing employment of local Aboriginal people by Council and suppliers when appropriate, and building capacity and skills
Environmental sustainability:	<p>Increase implementation of environmentally sustainable business practice.</p> <hr/> <p>Reduce pollution including carbon emissions from Council’s supply chain, by:</p> <ul style="list-style-type: none"> • Encouraging suppliers to reduce and offset greenhouse gas emissions and reduce pollution • Reducing the impact of works, goods and services on the public (health and well-being, air quality, generation and disposal of hazardous materials) • Improving emergency efficiency and encourage renewable energy • Improving water management and reduce water consumption

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- Avoiding the use of fossil fuels in the delivery of products or services where practicable
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Stimulate the transition to a circular economy, reducing / eliminating waste, minimising the use of resources, water and energy, by:

- Minimising the use of resources throughout the supply chain
 - Selecting products / services that have a minimal effect on the depletion of natural resources or that regenerate natural resources
 - Reducing waste to landfill through the supply chain and increase the use of materials that contain re-claimed resources
-

Maintain biodiversity and climate resilience, by protecting and enhancing the natural environment and green spaces of our municipality.

3.3 Open and fair competition

All prospective contractors and suppliers will be afforded an equal opportunity to tender or quote.

Impartiality will be maintained throughout the procurement process so it can withstand public scrutiny. Where a conflict of interest exists, that will be disclosed and that person will be excluded from any evaluation of tender processes.

The commercial interests of existing and potential suppliers will be protected. Confidentiality of information provided by existing and prospective suppliers will be maintained at all times, particularly commercially sensitive material such as, but not limited to, pricing, discounts, rebates, profit, manufacturing and product information.

3.4 Accountability

Accountability in procurement means being able to explain and provide evidence on the process followed. 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, and to the benefit of the community.

All Council staff must be able to account for all procurement decisions of goods, services and works purchased by Council and provide feedback on them, and all procurement activities must provide for an audit trail for monitoring and reporting purposes.

Council's Audit & Risk Committee will monitor the Procurement Policy and its implementation and related internal controls.

3.5 Risk management

Council will manage all aspects of its procurement processes in accordance with its adopted risk management policies and strategies and in such a way that all risks are identified, analysed, evaluated, treated, monitored and communicated in a manner that protects and enhances Council's capability to prevent, withstand and recovery from interruption to the supply of goods, services and works.

A procurement risk management plan must be completed and approved for all procurements of a value of \$1 million or greater, or where required as part of project planning processes.

3.5.1 Supply by contract

The provision of goods, services and works by contract potentially exposes Council to risk. Tenders provided by Council should, where practicable, use relevant Australian Standards for general conditions of contract and related conditions of tendering. Council will also minimise its risk exposure by measures such as:

- Standardising contracts to include current, relevant clauses,
- Requiring security deposits where appropriate,
- Referring specification development to relevant subject matter experts,
- Requirement contractual agreement before allowing commencement of work,
- Use or reference to relevant Australian Standards or equivalent, and
- Effectively managing the contract including monitoring and enforcing performance and safety.

3.5.2 Use of corporate purchasing cards

Use of a corporate purchasing card is an effective way to acquire goods and services where it is not economical or practicable to issue purchase orders. Council will ensure appropriate control of purchasing card use with documented processes which:

- Identify staff who are authorised to use cards, consistent with Council delegations,
- Document expense thresholds for card use,
- Not allow ATM or other cash withdrawals,
- Identify restrictions on use and on personal gain,
- Ensure that purchasing cards are only used by or with the approval of allocated cardholders,
- Require use agreements between Council and card holders,
- Require appropriate and segregated review, verification and approval of card purchases,
- Enable audit trails for purchases by card, and
- Provide consequences for misuse or fraudulent use of cards.

3.6 Local economic benefits

Council will leverage procurement to support local businesses and employers who decide to develop their operation and services within the Pyrenees Shire. Whilst value for money is a key objective, consideration will also be given for investment in local business and genuine employment opportunities within the Shire. This might include creation of new jobs, ensuring sustainability of existing local jobs or upskilling the local workforces and creating new opportunities.

Where Council can show value for money, capability and competency and sufficient competition, Council may mandate only suppliers within the Pyrenees Shire to participate in a particular environment.

The Council may apply an evaluation weighting of up to 10% for all contracts (RFQs, EOIs, and tenders) to support the development of employment and business within the Pyrenees municipality. When applying this 10% weighting Council will:

- Where appropriate:
 - Identify if the procurement can be targeted to or adapted to encourage local business,
 - Identify any barriers and limitations of the local supply market and consider opportunities to reduce,
 - Include a statement that this weighting is to encourage responses to identify the development of local business and will be evaluated as such, and
 - Develop key performance indicators to measure responses.
- Include within RFQ, EOI and tender documentation a supplier question to identify potential local benefits.

If the application for local business benefits will result in an outcome that is unreasonable or will not deliver value for money or is deemed not to be to the advantage of Council, then Council may elect to remove this weighting from the tender or quote documents.

4 ETHICAL STANDARDS AND CONTROLS

Council's procurement activities shall be performed in an open, transparent and ethical manner with demonstrated integrity, fairness and accountability that meetings relevant legal requirements.

All procurement and tender processes shall be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and the Local Government Act 2020.

4.1 Responsible financial management

The principles of responsible financial management will be applied to all procurement activities and in accordance with Council's financial management policy. Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, will be established prior to the commencement of any procurement action for the supply of goods, services or works.

Council staff must not authorise the expenditure of funds in excess of their financial delegations.

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

4.2 Financial delegations

The relevant financial Instrument of Delegation determines the levels of delegation authority required for expenditure on each instance of procurement. This is reviewed as a minimum annually and approved by the Chief Executive Officer. Financial delegation to the Chief Executive Officer is authorised by Council resolution.

A purchase orders must be raised in the finance system for each individual procurement and all subsequent contract variations.

Measures which intentionally seek to avoid the requirement of the procurement thresholds, for example: contract splitting, purchase order splitting or placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to be a breach of this policy and Council's prevention of fraud and corruption controls.

All procurement above \$300,000 must be approved by Council resolution.

4.3 Internal controls

All persons engaged in procurement processes must follow the established framework of internal controls over procurement processes in order to ensure:

- for transactions above \$100,000, more than one person should be involved in, and responsible for the authorisation and management of each transaction from end to end (segregation of duties), (e.g., this can be achieved through documented consultation or collaboration between officers of different officers being responsible for administration, evaluation and approvals),
- transparency in the procurement process,
- a clearly documented audit trail exists for procurement functions,
- appropriate authorisations are obtained and documented,
- systems are in place for appropriate monitoring and performance measurement, and
- a process is in place for escalation, where appropriate, of procurement matters (including procedural non-compliance) to the Executive Leadership Team, the Audit & Risk Committee and/or Council.

Different staff should be assigned responsibility for different elements of related activities, particularly those involving authorisation, custody or record-keeping. Where practicable, to maintain appropriate segregation or rotation of duties, best practice is to have different people for each of:

- drafting and approving tender specifications
- raising and approving purchase orders
- receipting goods
- approving related invoices
- reviewing and reconciling financial records
- performing inventory counts.

Where practicable, controls should facilitate staff rotating duties in positions more susceptible to fraud and that staff undertake regular periods of annual leave.

For approval of purchase orders and receipt of goods and services the following process is to be followed.

- Accounts Payable check that the invoice matches the original purchase order
- Any variations to the purchase order is checked with the authorising officer
- The authorisation of the invoice by the authorising officer is evidence that the goods or services have been received and payment is approved.

4.3.1 Fraud control

Council is committed to the highest standards of procurement ethics and honesty and will maintain appropriate policies and processes with regard to the prevention, identification and control of improper conduct, fraud and corruption.

4.4 Probity and transparency

All persons engaged in procurement on Council's behalf must exercise the highest standards of honesty and integrity in a manner able to withstand the highest level possible of scrutiny. All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest.

In procurement matters, all Council staff:

- Must complete and lodge a Conflict-of-Interest declaration before engaging in the evaluation of quotations and tenders, and
- must disclose in that Conflict-of-Interest declaration any general or material conflict of interest where it could be perceived that an interest might unduly influence them.
- Must be excluded from exercising delegated Council powers, duties or functions if they have a conflict of interest.
- Council staff must declare to their Director any items or services delivered to Council that were not part of the requirements of a contract and which could be construed as gifts or new assets to Council. Such items must be referenced on supplier invoices.

In procurement matters, all Councillors:

- Must avoid conflicts between their public duties as a Councillor and their personal interests and obligations.
- Must not improperly direct or influence a member of Council staff in the exercise of any power or performance of any duty or function.

4.4.1 Conflicts of interest

Councillors and Council staff must at all times avoid situations which may give rise to an actual or perceived conflict of interest. Council's Procedure for disclosure and management of Conflicts of Interest provide greater guidance in this regard.

General Conflict of Interest	means that an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner contrary to their public duty
Material Conflict of Interest	means an affected person would gain a benefit or suffer a loss depending on the outcome of the matter A benefit or loss may be direct or indirect and pecuniary or non-pecuniary Affected persons include, among others, the member of Council staff and their family members

4.4.2 Gifts and benefits

No Councillor member of Council staff seek or accept any immediate or future reward or benefit in return for the performance of any duty or work for Council or where it could be reasonably perceived as influencing them or their position or undermining their integrity or the integrity of the process in some way.

Any gift or benefit offered to a Councillor or member of Council staff will be managed in accordance with Council's internal policies.

Councillors and Council staff, particularly staff involved in procurement or contract management:

- must not knowingly visit a current supplier's premises without invitation when acting in their official capacity, and
- must not knowingly engage a Council supplier for private benefit unless that engagement is on proper commercial terms.

4.5 Disclosure of information

Commercial in confidence information received by Council must not be disclosed and is to be stored in a secure location.

Councillors and Council staff must take all reasonable measures to maintain confidentiality of:

- Information disclosed by organisations in tenders, quotation or during tender negotiations, and
- Commercial in confidence information.

Councillors and Council staff must 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.

A no stage should any discussion be entered into which could improperly influence the procurement process or negotiation of a contract prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

4.6 Endorsements

Council staff must not publicly endorse any products or services without the permission of the relevant Director or the Chief Executive Officer.

4.7 Complaints and Reporting suspicious activities

Members of the public and suppliers are encouraged to report known or suspected incidences of improper conduct to the Director Corporate & Community Services or Council's Chief Executive Officer.

Council staff will manage complaints in accordance with Council's internal complaints management processes.

Suspected improper conduct, offers of bribes, commissions and any other irregular approaches from suppliers, prospective suppliers or other individuals will be investigated and reported in accordance with Council's processes around Public Interest Disclosures and fraud protection.

The Chief Executive Officer must notify IBAC (Independent Broad-based Anti-corruption Commission) of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred in accordance with mandatory reporting requirements.

5 SAFETY IN PROCUREMENT

Safety considerations and hazard minimisation must be considered in all procurement processes undertaken within Council. Safety in procurement should be undertaken in accordance with relevant Council processes and may include:

- identification of hazards prior to purchase – e.g., dangerous goods, hazardous substances, or goods / services that may expose individuals to harm,
- where goods require, ensuring supply of Safety Data Sheets (SDSs) with the goods,
- undertaking of risk assessments where appropriate,
- ensuring supply of compliant plant risk assessment data and other documentation demonstrating that plant or equipment is safe in its design,
- undertaking of commissioning or operational trials to confirm safe operation of plant or equipment
- ensuring provision of evidence that testing of plant, building, structures or substances has been appropriately conducted to identify and minimise risk, and
- ensuring that designers of buildings or facilities incorporate 'safety in design' principles to maximise pre-inclusion of safety requirements and minimise need for more expensive post-implementation fixes.

It is the responsibility of the person undertaking the procurement process, working with the contractors, to ensure that any identified risks are controlled in alignment with WorkSafe

obligations and an appropriate and compliance (to ISO / AS Standards) risk assessment matrix before accepting delivery or installation.

6 TENDERING AND CONTRACTS MANAGEMENT

Tender processes should be planned as part of project development and budgetary processes. Tendering processes are detailed in Council's Procedure for Procurement via Tender.

All public tenders invited by Council will be published via Council's eTendering Portal (TenderLink) and may be advertised in the media. Information regarding current tenders and awarded tenders will be published on Council's website.

Late tenders must not be accepted.

6.1 Tender evaluation

A tender evaluation panel will be established to evaluate each tender submission against the tender's selection criteria. Tender evaluation panels can include external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 (three) persons. Tender evaluation panels must include a member of the governance or finance teams to ensure appropriate governance oversight is maintained.

A detailed Tender Evaluation Plan will be developed, approved by the project sponsor and strictly adhered to by the tender evaluation panel. The Tender Evaluation Plan will include the establishment of detailed evaluation criteria and the application of a pre-approved and robust weighted scoring system.

The Tender Evaluation Plan must be completed and approved by the Project Sponsor prior to the tender or quotation being issued.

6.2 Evaluation criteria

Council may include the following evaluation criteria categories to determine whether a proposed contract provides value for money:

- Mandatory compliance criteria – e.g., licensing, OHS requirements
- Tendered price
- Capacity of the tenderer to provide the goods / services / works
- Capability of the tenderer to provide the goods / services / works
- Demonstration of sustainability
- Local content
- Financial sustainability of the tenderer

6.3 Probity advisor

A formal probity plan should be developed and a probity advisor appointed in the following circumstances:

- Where the proposed total contract sum exceeds \$1 million over the life of the contract, or for a lesser value set by Council from time-to-time, or
- Where a proposed contract is considered by Council or the Chief Executive Officer to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.

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

6.4 Shortlisting and negotiations

Council may conduct a shortlisting process during EOI, tender and quotation processes. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for Council and its community.

Shortlisted tenderers may be invited to submit a best and final offer in relation to all or certain aspects of their respective tenders.

Once one or more preferred tenderers are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements within the original scope and intent of the tender. Probity requirements apply to all negotiations.

6.5 Dispute resolution

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

6.6 Contract management

In order to continually improve its outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accordance with its documented procurement and contract management processes.

Good contract management ensures goods, services and works are delivered to the required standards of quality and quantity as intended by the contract through:

- Establishing a system monitoring process to achieve the responsibilities and obligations of all parties under the contract,
- Providing a means for the early recognition of issues and performance problems and the identification of solutions,
- Adhering to Council's risk management and project management frameworks and relevant OHS and sustainability requirements.

Council contracts must include contract management requirements commensurate with the complexity of the procurement. Furthermore, contracts should be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure the Council, and its community, receives value for money.

Council awards some contracts that are strategically critical and of relative high value. Council will ensure additional senior (project sponsor / project control group) oversight to the management of such significant contracts.

7 OTHER MATTERS

7.1 Definitions

Act	Local Government Act 2020
Collaborative procurement arrangement	A contract established by Council, government or a nominated agent, such as Procurement Australasia, Municipal Association of Victoria (MAV) or a local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Commercial in confidence	Information that, if released, may prejudice the business dealings or commercial interests of Council or another party, e.g., prices, discounts, rebates, profits, methodologies and process information.
Contract management	The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide value for money.
Council	The Pyrenees Shire Council organisation, including Councillors and Council staff.
Councillors	Council's elected representatives (the Mayor and Councillors).
Council staff	Includes all Council officers, temporary employees, contractors, volunteers and consultants while engaged by Council.
IBAC	The Independent Broad-based Anti-corruption Commission.
Aboriginal Business	A business that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s).
Local business	A commercial business with an operational premises that are physically located within the municipal borders of the Pyrenees Shire, or a neighbouring Shire.
Probity	<p>Within government, the term 'probity' is often used in a general sense to mean 'good process'.</p> <p>A procurement process that confirms 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.
Schedule of Rates contract	A standing offer arrangement based on a Schedule of Rates contract that sets out rates for goods and services which are available for the term of the agreement but without a commitment to purchase a specified value or quantity of goods or services.
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 from either a select list or via public advertisement to submit an offer by tender followed by evaluation of submissions and selection of a successful bidder or tenderer in accordance with pre-determined evaluation criteria.
Total contract sum	The potential total value of a contract, including: <ul style="list-style-type: none">• costs for the full term of the contract, including any options for either party to extend the contract,• applicable goods and services tax (GST),• anticipated contingency allowances or variations, and• all other known, anticipated and reasonably foreseeable costs.
Value for money	Value for money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none">• non-cost factors such as contribution to the advancement of Council's priorities, fitness-for-purpose, quality, service and support, and• cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

7.2 Linkages with other Council processes

This policy must be read and implemented in accordance with the following plans, policies and strategies:

- Project management framework
- Pyrenees Shire 2031 – Community Vision 2021-2031
- Council Plan 2021-2025
- Procedure – Procurement via tender
- Procedure – Preferred Supplier Listing

7.3 Key Performance Indicators

Pyrenees Shire Council will seek to improve its procurement performance by capturing and analysing data on key performance indicators, including:

- Number / percentage of contracts delivered on time and on budget.
- Number of new collaborative procurement contracts.
- New preferred supplier contracts.
- The number of local businesses engaged and proportion of local spend.
- Value of benefits achieved.
- Level of compliance with the procurement policy.
- Annual spend on sustainable goods and services.

A report detailing performance against these indicators will be presented annually to Council and its Audit & Risk Committee.

Council is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

8 REFERENCE AND RELATED DOCUMENTS

- Local Government Act 2020
- Trade Practices Act, Goods Act and the Environmental Protection Act
- Council documents –
 - Financial Management Policy (under development)
 - Purchase by Tender Procedure
 - Fraud & Corruption Control Policy and Procedure
 - Acceptance of Gifts Policy
 - Conflicts of Interest Procedure
 - Codes of Conduct (Councillor and Staff)
 - Project Risk Management Guidelines

8.1 Consultation and impact

Pyrenees Shire Council is committed to consultation and cooperation between management and its employees. Development of this Policy was conducted in consultation with the Senior Leadership Team and other relevant staff. It is considered that this Policy does not impact negatively on the rights identified in the Charter of Human Rights and Responsibilities.

9 VERSION HISTORY

Version Number	Issue date	Description of change
1.0		Initial release – document creation
2.0	March 2018	Annual review
3.0	July 2019	Annual review incorporating safety in procurement and recommendations from the VAGO Audit Report “ <i>Fraud and Corruption Control – Local Government</i> ” June 2019
4.0	September 2021	Major review – Aligned with changes in Local Government Act 2020, changes in thresholds for tender.

10 APPENDIX A – PURCHASE ORDER EXEMPTIONS

Purchases of the following items do not require purchase orders:

- Accommodation or travel
- Audit & Risk Committee fees
- Community Hall hire
- Contractual agreements (e.g., software maintenance / licences, debt collection, leases)
- Contributions (e.g., grants, sponsorships, Committee of Management reimbursement of costs)
- Councillor allowances and reimbursements
- Daily purchases for staff lunchroom / petty cash (e.g., milk, tea)

- E-tags
- Emergency after-hours repairs / maintenance, up to 3 days after emergency first occurred
- Equipment inspections (e.g., CFA, First Aid Kits)
- Fuel accounts
- Government / statutory charges (i.e., EPA Levy, licences, police checks)
- Insurances (including WorkCare)
- Legal fees
- Medical expenses
- Memberships / subscriptions
- Postage
- Rental (property)
- Photocopier volume charges
- Reactionary maintenance – e.g., fire hydrants
- Reimbursements / refunds (employees and others)
- Security services – e.g., call-out fees (not contract charges)
- Spring water
- Utilities – electricity, phone, gas, water, street lighting etc.
- Vehicle registration
- Cleaning services (linen) for caravan parks
- Repairs, servicing and maintenance of vehicles / plant.