

## PROCUREMENT POLICY (VERSION 10.0)

### 1.0 Purpose

This Policy represents the principles, processes and procedures that will be applied to the purchase of all goods, service and works by council. The scope of this Policy commences from when council has identified a need for procurement requirements. It continues through to the delivery of goods or completion of works or services.

### 2.0 Scope

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

Ballarat City Council recognises that a procurement strategy and appropriate best practice contract and procurement principles, policies, processes and procedures, will enhance achievement of Council objectives such as socially responsible procurement, value for money, achieving innovation providing best value services to the community and enhancing environmental sustainability.

In November 2008, amendments to the Local Government Act 1989 (the Act) were passed which included a new section 186a that requires Council to 'prepare and approve a Procurement Policy'. A Procurement Policy must include any prescribed matter and Council must have regard to Ministerial Guidelines made under the section when preparing its policy. Council must review its procurement policy annually and make it available for public inspection. Provisions pertaining to procurement in the *Local Government Act 2020* are not enacted until 1 July 2021.

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 within the Ballarat Region;
- give preference to the procurement of goods, services and works from within City of Ballarat and surrounding municipalities where price, quality, services standards and delivery is comparable to other suppliers.

This policy encompasses all elements of the procurement of goods and services and requires compliance from Councillors, Special Committee members, Staff, Contractors, Consultants and other members as required by the Chief Executive Officer.

## 2.1 Conduct of Councillors and Council staff

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

All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (Section 95 *Local Government Act 1989*).

In procurement matters:

- 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;
- Members of staff must disclose a general or material conflict of interest before providing advice or reports (Section 130 *Local Government Act 2020*);
- Council officers with delegated Council powers or duties are prohibited from exercising those powers, duties or functions if they have conflicts of interest (Section 130 (2) (b) *Local Government Act 2020*);
- A Councillor must comply with the Councillor Code of Conduct and avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations. Councillors must disclose any conflict of interest (Section 130 *Local Government Act 2020*);
- Risk and Audit Committee members must disclose conflicts of interest in accordance with the Risk and Audit Committee Charter;
- 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. (Section 123 (3) (c) *Local Government Act 2020*);
- Members of staff must also comply with the Code of Conduct for Council Staff (Section 95AA LGA);
- All staff engaged in the evaluation of quotation or tender evaluations must adhere to this Policy and complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality;
- All Council Staff must adhere to councils Gifts and Hospitality Policy in matters of procurement;
- All Councillors must adhere to the Councillor Gift 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.

## 2.2 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.

## 2.3 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.

For the avoidance of doubt any Tenderer found to have:

- a. 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
- b. 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 this clause 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

*The above clause will be included in the Conditions of Tender*

#### **2.4 Conflict of Interest**

Councillors and Council staff shall at all times avoid situations in which private interest's conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff must not participate in any action or matter associated with the arrangement of a contract (i.e. evaluation, negotiation, recommendation, or approval), where that person or any member of their immediate family has a significant interest or holds a position of influence or power in a business undertaking tendering for the work.

The onus is on the Councillor and the member of Council staff involved being alert to and promptly declaring a general or material conflict of interest to Council.

#### **2.5 Fair and Honest Dealing**

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

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

Confidentiality of information provided by existing and prospective suppliers must always be maintained, particularly commercially sensitive material provided by a business, commercial or financial undertaking that— (i) relates to trade secrets; or (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

#### **2.6 Accountability and Transparency**

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

Therefore, the processes by which all procurement activities are conducted will be in accordance with the Council's procurement policies and procedures as set out in this policy and related Council policies and procedures.

Additionally:

- The responsible Council staff must be able to account for all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- Where necessary, brief tenderers regarding the documented decision-making process, and
- All procurement activities are to leave an audit trail for monitoring and reporting purposes.

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

Councillors and Council staff should also avoid the ambiguous situation created by visiting the premises of a contractor, organisation, firm or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how insubstantial the evidence available), must be promptly brought to the attention of the CEO.

## **2.8 Disclosure of Information**

Information received by Council that is Confidential (as defined in the Local Government Act 2020) 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 Confidential.

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; and
- 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 Governance Structure**

Council shall:

- Establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by Council;
- Ensure that Council's procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;

- Ensure that prospective contractors and suppliers are afforded an appropriate opportunity to tender/quote;
- Encourage competition; and
- Ensure that policies that impinge on the purchasing policies and practices are communicated and implemented.

### 3.0 Policy Statement

#### Responsible Financial Management

The principle of responsible financial management must be applied to all procurement activities. Accordingly, to give effect to this principle: the availability of existing funds within an approved budget, or source of funds, must 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 delegation or split funds to fit 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 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.

#### 3.1 Methods of Purchasing

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

- Flexi-Purchase Card;
- Purchase Order following a quotation process;
- Under contract following a tender process; or
- Where Council is satisfied that Value for Money requirements have been satisfied, under purchasing schemes including collaborative purchasing arrangements with other Councils and commercial schemes such as provided by Procurement Australia, the Municipal Association of Victoria and the State Government Purchasing Panel;
- Unless other arrangements otherwise authorised by Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies;
- No person is permitted to purchase an item in excess of their transaction limit under any circumstance. Any occurrence of this will be considered a breach of policy and appropriate action taken for a breach of policy. If an item is in excess of your transaction limit it will be necessary for your direct manager to purchase the goods or services;
- The purchasing of gift cards can only be completed by Financial Services once approved by the Director of Corporate Services or the Chief Executive Officer.

Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders. Typically, a multi-stage tender process will commence with a registration of interest stage followed by a tender process involving the organisations selected as a consequence of the registration of interest stage.

A Council Director, Executive Manager or Manager may determine to seek **Expressions of interest** (Section 186(1) of the Act) where:

- there is likely to be many tenderers and tendering will be costly or the procurement is complex; and council does not wish to impose the costs of preparing full tenders on all tenderers
- there is uncertainty as to the willingness and/or interest of parties or vendors to offer the potential products or services or to undertake the proposed works
- The requirement is complex, difficult to define, unknown or unclear,
- The requirement is capable of several technical solutions
- The requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

An **Expression of Interest** or a **Request for Proposal** process may be undertaken where determined by the CEO, a Director, Executive Manager or Manager and where Council advertises publicly:

- the purpose and nature of the contract
- the date by which it will invite tenders.

Tenders and Expression of Interests should not be used to compensate for a lack of understanding as to council's needs. If uncertain what is required; a simple **Request for Information** should be undertaken. A Request for Information may be undertaken for reasons which include establishing:

- the availability of technologies, products or service available in the marketplace to meet council needs
- whether proposed terms and conditions or deliverable expectations are acceptable in the marketplace
- whether proposed budgets are adequate to meet non-standard procurement needs – inadequate budgets should not become apparent when tenders are opened

A Request for Information should be used rather than a Request for Tender or Expression of Interest in order to improve understanding of needs, availability and likely costs.

A Request for Information will be undertaken similar to an Expression of Interest and advertised accordingly. Care must be taken when writing a specification for a Request for Information to ensure there is no inadvertent commitment to purchase included.

### 3.2 Procurement Thresholds and Competition Requirement

Council will decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be dependent on the size and complexity of the proposed procurement activities.

#### Minimum Spend Competition Thresholds (Inclusive of GST)

| Financial Thresholds<br>(AUS\$ inc GST)   | Requirements          |                               |                   |   |
|---|-----------------------|-------------------------------|-------------------|---|
|   | Process<br>Managed by | Market<br>Engagement          | Agreement<br>Type | Documentation                                   |
| < \$5,000   | Business Unit         | 1 Verbal Quote                | P-Order<br>P-Card | Quote details<br>must <sup>##</sup> be diarised |
| \$5,001 to \$25,000   |                       | 1 Written Quote               |                   | Quotes must be<br>registered in eBMS            |
| \$25,001 to \$150,000<br>for goods & services<br>or \$200,000 for<br>works <sup>1</sup> |                       | 3 Written Quotes <sup>#</sup> |                   |   |
| > \$150,000<br>for goods & services<br>and > \$200,000<br>for works                     | Procurement<br>Unit   | Tender                        | Contract          | Evaluation Report                               |

<sup>#</sup> A minimum of one of the three quotes **must be** obtained from a local supplier/provider wherever possible.

<sup>##</sup> 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.

#### 3.2.1 Threshold Margin

If a quotation budget is within 5% of the of the tendering thresholds listed at 3.2, then the tendering requirements must be adhered to.

#### 3.2.2 Payments

Payment for Works or Services will be made by the Principal 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 Principal's Authorised Officer that requested the works. All invoices shall be submitted in accordance with the Schedule of Rates forming part of the contract.

#### 3.2.3 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.

#### 3.2.4 Use of Agents

Council encourages (when available) the services of a third-party agent such as MAV Procurement or Procurement Australia to undertake the Tender process on behalf of Council where it can be shown that Best Value for Money would be achieved.

<sup>1</sup> As set under the Local Government Act 1989 Section 186(1)

The Act allows for councils to form groups for the procurement of goods, services or works with one member of the group, acting as an agent for the other councils, undertaking a single competitive process. Each of the members of this group may enter into a contract with the preferred service provider identified through this competitive process. Council encourages group tenders with surrounding municipalities, particularly where it can be shown that Best Value for Money would be attained.

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 collective group tender.

Council's Procurement Unit is to be notified when a third-party agent is appointed.

### **3.2.5 Total Cumulative spend**

Care should be taken when reviewing the limits at 3.2 (above). In order to comply with the requirements of this policy, where significant sums are spent in aggregate with one supplier or on one service, it is necessary to structure procurement proposals (as requests for tenders, quotations or prices) in order to achieve greatest value and supplier performance by leveraging this cumulative spend, rather than treating each discrete arrangement as a separate procurement exercise. Council has determined that the cumulative expenditure to a supplier or for a specific product/service for a period of up to one year is to be considered unless an exemption is approved by the Chief Executive Officer or the Director Corporate Services.

Should the CEO consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the Council, public tenders may be called for purchase of goods, services and works for which the estimated expenditure is below the thresholds set under this policy.

### **3.2.6 Approved Suppliers (Panel)**

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

Benefits of appointing a Panel of Approved Suppliers may include:

- Savings in time and money
- Provision of higher levels of quality
- Faster turnaround times
- Increased confidentiality

Approved Suppliers should be appointed for one (1) year with a further option to extend for two (2) x two (2) years to a maximum of five (5) years, subject to contract requirements. This term may be varied in consultation with the Procurement Unit dependant on contract requirements.

Council's Approved Suppliers should always be utilised whenever possible. A full list is available from the Intranet. When utilising Approved Suppliers "best value for money" should always be the first consideration.

If an Approved Supplier has provided a Schedule of Rates for services during the Tender process, direct appointment may be made up to a maximum of \$50,000 for any single venture. For works exceeding \$50,000 three quotes must be obtained to ensure value for money. Any project, single purchase or a combination of Approved Suppliers are not to be utilised to bypass the requirements to tender where the total project cost may



exceed the Legislated limits for tendering. If a Schedule of Rates was not provided the quoting requirements outlined in Clause 3.2 must be adhered to.

### **3.3 Determining the Procurement Vehicle**

#### **3.3.1 Tender**

The acquisition of goods and services for which the estimated expenditure exceeds \$150,000 and carrying out of works for which the estimated expenditure exceeds \$200,000<sup>2</sup> must be undertaken by public tender.

#### **3.3.2 Expression of Interest**

An expression of interest is a two-step process. When the thresholds are met, an expression of interest process does not replace the need to call tenders. It simply precedes the calling of tenders and generally seeks to constrain the number of, and focus the quality and detail, of tenders received. An expression of interest process is generally structured with the following components:

- overview of requirements
- invitation to submit
- criteria for evaluating
- form of (respondents form)

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

#### **3.3.3 Quotations**

Purchase of goods and services up to \$150,000 and \$200,000 for works in a single contract or supply arrangement may be undertaken using the procurement by quotation method as described below. Payment for these purchases up to the delegated individuals 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).

##### **3.3.3.1 Items of value up to \$5,000**

To achieve best value for the City of Ballarat the seeking of verbal and/or written quotations is encouraged. As a minimum one verbal quotation should be obtained. Verbal quotations should be diarised.

##### **3.3.3.2 Items with a value – \$5,001 to \$25,000**

One written quotation must be obtained and registered in eBMS.

##### **3.3.3.3 Items with a value – \$25,001 up to \$150,000 for goods and services and \$200,000 for works**

Three written quotations to be obtained, one of the three quotes (as a minimum) must be obtained from a local supplier wherever possible. In the event that this is not possible the officer is to advise the Economic Development Unit so that supply gaps can be tracked.

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<sup>2</sup> As set under the Local Government Act 1989 Section 186(1)

Public advertising of quotations should be considered when judged to be sufficiently advantageous to Council. This will ensure transparency and best value to Council.

Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best value for money outcome. All Quotes over \$5,000 must be registered in the eBMS system.

Reasons for any non-conformance to this requirement must be documented and filed within Council's records system for audit purposes.

### **3.3.4 Exemptions for obtaining Quotes:**

All areas of expenditure identified below are exempt from the requirements of clause 3.3.3 of this policy. However, transactions must still comply with clause 3.3.1 if it fits within the tendering threshold.

- Ministerial Approval - The requirements of Section 186 of The Act do not apply if a contract is entered into by the City in accordance with arrangements approved by the Minister.
- Shop Supplies - Units of the City that operate a retail outlet within its Unit that 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 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 (must relate to position held at the City);
  - (b) Where the supplier is the sole source of specific intellectual property; and
  - (c) Advertising (newspapers, magazines, TV and radio);
- 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. To achieve this, the City utilises servicing by the manufacturers from whom the plant and equipment was originally purchased;
- Legal Services - Legal services are exempt from the requirements of Section 186 of the Act;

- Other circumstances when authorised by the CEO or Director Corporate Services on receipt of a compliant Exemption request;
- The situation may arise where insufficient quotations are received. This may occasionally occur where there are few suppliers for the goods, services or works being sought. In this case, the details of the contacted suppliers must be recorded in eBMS or recommendation and an appropriate comment recorded;
- 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. 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.

### 3.4 Late Tenders

Late tenders will not be accepted under any circumstances. **\*CLARIFICATION\*** If an electronic tender submission has been commenced using eProcure prior to the closing date/time, and the transmission is interrupted due to tender closing time and the commencement of submission transfer can be verified by eProcure, the submission will be deemed to be received.

### 3.5 Evaluation of Tenders/Quotes

#### Tenders

- A Tender evaluation panel will be established to evaluate each tender against the selection criteria and its composition will be determined by the respective Director or Executive Manager. Consideration must be given to gender diversity in the makeup of the panel.
- Evaluation Panel must have a minimum of three members (minimum two Council staff) and may include external consultants who are specialist in the area.
- Evaluation Panel must have an independent (non-scoring) member as appointed by the Procurement Unit
- The evaluation process must be 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 panels will produce a written report of their evaluation using the prescribed evaluation template.
- Tender Evaluation must be updated in eBMS Tender & Contract Management System.

#### Quotes

- An Evaluation Panel will be established to evaluate each quote against the selection criteria and its composition will be determined by the respective Director or Executive Manager. Consideration must be given to gender diversity in the makeup of the panel
- Evaluation Panel will be made up as indicated below:
  - Quotes >\$25,000 and <\$100,000 must be reviewed by a minimum two Council Officers
  - Quotes >\$100,000 and <\$150,000 (Goods & Services) or <\$200,000 (works) must be reviewed by a minimum of three Council Officers and must produce a brief written report of their evaluation (either email or through eBMS) which is to be approved by the Executive Manager or Director of the Business Unit dependent on the Financial Delegation.
- The evaluation process must be robust, systematic and unbiased

- Once a preferred supplier 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 Request for Quote. Such negotiations must be exhausted with one supplier before beginning with another.

### 3.5.1 Evaluation of Tenders and Quotations

All tenders and quotations are to be evaluated by an evaluation panel as outlined in 3.5, in a two staged process:

1. Quantitative assessment of a weighted score totalling 100%, which includes mandatory 10% Local Content; and
2. Evaluation of price against weighted score
  - $VFM = \text{Tendered Price} / \text{Weighted Score}$  (Tendered Price divided by Weighted Score)

VFM 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.

### 3.5.2 Occupational Health & Safety (OH&S)

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). This may also be subject to review by the Safety and Risk Unit.

### 3.5.3 Project qualitative/comparative Criteria

As mentioned at 3.5.1, the Tendered Price is factored into the evaluation process by virtue of the VFM index. Per the index, the Weighted Score is determined by an evaluation criteria provides a mechanism for comparing offers through assessment of the relative worth of different submissions. The evaluation criteria for each project may address a number of the below subject to actual procurement requirements:

- Previous Relevant Experience
  - Experience relevant to the works over past three years
- Past Performance
  - Past documented performance with City of Ballarat or other councils
- Capability
  - Proposed plant and equipment
  - Proposed staffing levels
  - Management capability
  - Technical capability
- Capacity
  - Extent of sub-contracting
  - Ability to resource project
- Ability to adhere to the specification
- Project Timeline
  - Methodology/Plan including Gantt Chart
- Qualifications
- Quality
  - Quality of goods and services to be provided
  - Quality Management Plan
  - Quality and Audit Systems

- Risk Management
  - OH&S (refer 3.5.2)
  - Regulatory compliance
  - Means of controlling quality of sub-contractors
  - Extent of Risk
- Human Resource Management
- Customer Service
  - Processes
  - complaints
- Sustainability/Environmental
  - Waste management
  - Recycling
  - Energy management
  - Emission management
  - Water conservation
  - Green building design
  - Ecologically sustainable design
  - Sustainable supply and consumption
- Value Adding
- Social Procurement

**NOTE:** *The criteria listed in 3.5.3 is 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 proper evaluation and comparison of submissions.

The evaluation criteria should not change once the procurement documents are issued. If they are, then addenda must be issued advising suppliers of the change. The criteria cannot be changed once submissions are received/opened.

#### **3.5.4 Weighted scoring methodology**

This is the preferred method for most 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.

Upon receipt of submissions, after screening out those offers where:

- the tendered/quoted price is 50% or greater than the allocated budget and/or
- does not comply with the conditions for participation
- does not meet the requirements outlined in the specification/brief

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 each of the Project qualitative/comparative criteria.

| Definitive        | Score | Value Judgement   |
|-------------------|-------|---|
| Excellent         | 5     | Full achievement of the requirements for the criterion. Demonstrated strengths, no errors, weaknesses or omissions  |
| Very Good         | 4     | Sound achievement of the requirements. Some minor errors, risks, weaknesses or omissions, which may be acceptable as offered                                  |
| Good              | 3     | Reasonable achievement of the requirements. Some errors, risks, weaknesses or omissions, which can be corrected/overcome with minimum effort                  |
| Satisfactory      | 2     | Minimal achievement of the requirements. Some errors, risks, weaknesses or omissions, which are possible to correct/overcome and make acceptable              |
| Poor              | 1     | No achievement of the requirements. Existence of numerous errors, risks, weaknesses or omissions, which are difficult to correct/overcome and make acceptable |
| Totally Deficient | 0     | Totally deficient and non-compliant   |

### 3.5.5 Sustainability Specifications

In ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured, as stipulated in Section 3.10, selection criteria may include Supplier Environmental Sustainability and Contribution to Local Sustainability. Consideration of sustainability specifications could contribute to least impact on the environment and human health. When evaluating Environmental Sustainability, evaluation panels may consider, but not limited to, the following:

- Reduction of energy and water consumption
- Improvement of resource use efficiency
- Waste reduction
- Prevention of pollution

### 3.5.6 valuation Process

1. Evaluation Panel to review OH&S Schedule to ensure conforming. If not conforming the submission will be considered to fail the mandatory requirements and will not be evaluated further
2. Evaluation Panel to review all submissions received (except as outlined in 3.5.3 above) and rate each submission based on clause 3.5.1 above.
3. eBMS Tender & Contract Management System to be updated with Evaluation scores
4. Top two (2) submissions from previous step to have Financial Assessment undertaken – contact Procurement Unit or Finance Unit to organise
5. 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 Financial Assessment has shown the financial ability of the applicant to provide goods/services
  - b. A fail indicates that the Financial Assessment has shown the inability of the applicant to provide goods/services
6. 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
7. Financial Assessment should be completed prior to Recommendation being submitted to the Contracts Committee or Council. If not, recommendation will be “subject to positive Financial Assessment”
8. 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; 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.

### **3.5.7 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

A tender submission may be deemed 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.

Council may sometimes receive tenders which offer one or more alternatives where these 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 the legislative objectives for councils to achieve continual improvement. Tender documentation where innovative solutions are sought should specifically invite non-conforming tenders which council can 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.

### **3.5.8 Acceptance of Tenders:**

The chairperson of the evaluation panel will:

- maintain detailed records of all commercial-in-confidence negotiations, if any occur
- obtain approval for public tenders according to the below Delegation of Authority Requirements.

### **3.5.9 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, quotations, tenders 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.

### **3.5.10 Delegations Reserved for the Council**

#### **3.5.10.1 Council Staff**

Council shall maintain a documented scheme of procurement delegations, identifying the Council staff authorised to make such procurement commitments in respect of goods, services and works on behalf of Council and their respective delegations contained in financial delegation's policies:

- Acceptance of tenders;
- Acceptance of quotes;
- Contract term extensions (within authorised budget);
- Contract amendment (financial and non-financial);
- Appointment to register of pre-qualified suppliers;
- Flexi purchase Card purchases; and
- Procedural exceptions.

### **3.5.10.2 Delegations Reserved for the Council**

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

- Signing and sealing of contract documents; and
- Tender recommendations and Contract approval for all expenditure over \$250,000

### **3.5.11 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.

### **3.5.12 Commercial Information**

Procurement activities will be carried out in a way that supports Council staff in meeting their obligations - to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council guidelines.

## **3.6 Tender/Contract Management**

### **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 policies (eg. HS-12 Contractor Management / D-20-2519 Chemical Management / D-20-5252 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;
- 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 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 Director Level or above.

#### **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.

#### **3.6.7 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.

#### **3.6.8 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 Clause 3.5.9 above. Any cumulative variance greater than ten percent (10%) of the original contract price must provide written advice<sup>#</sup> of the variance to the following, dependant on the initial approval:

- Director
- CEO
- Contracts Committee or Council

<sup>#</sup>This advice is for information purposes only.

### **3.7 Demonstrate Sustained Value, Integration with Council Strategy**

Council's procurement strategy shall support its corporate strategy, aims and objectives, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community such as:

- Feeling safe,
- Living in a clean and pleasant environment, and
- Receiving good quality well managed Council services that are Value for Money.

#### **3.7.1 Achieving Best Value for Money**

The Council's procurement activities will be carried out on the basis of obtaining Best Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations.

Lowest price is not the sole determinate of Best Value for Money.

#### **3.7.2 Approach**

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 Role of Specifications**

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

- Ensures impartiality and objectivity;
- Encourages the use of standard products;
- Encourages sustainability;
- 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. Internal service standards will be agreed within Council and performance against these targets will be measured and reviewed regularly to support continuous improvement. The performance measurements developed will be used to:

- Highlight trend and exceptions where necessary to enhance performance;
- Improve the internal efficiency of the procurement process and where relevant the performance of suppliers;
- Facilitate relevant programs to drive improvement in procurement to eliminate waste and inefficiencies across key expenditure categories.

### **3.10 Sustainability**

Council is committed to achieving sustainability and ensuring it monitors and reports on Council activities and programs that have an impact on or contribute to the environment including but not limited to:

- Waste management,
- Recycling,
- Energy management,
- Emission management,
- Water conservation,
- Green building design
- Procurement
- Ecologically sustainable design
- Sustainable supply and consumption

#### **3.10.1 Sustainable Procurement**

Sustainable procurement is the acquisition of necessary goods and services that have least impact on the environment and human health, within the purchaser's capacity to do so.

The City of Ballarat recognises it has an implicit role in furthering sustainable development, through its procurement of goods, and services and works.

In addition, the City of Ballarat recognises the potential impact this spend has on the environment and where applicable will integrate sustainability, environmental and social issues into the procurement process. The Council aims to achieve this by:

- Considering the need to minimise emissions and reducing the negative impacts of transportation when purchasing goods and services
- Taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products and services procured
- Considering the environmental performance of all suppliers and contractors, and encouraging them to conduct their operations in an environmentally sensitive manner
- Considering the basic life cycle analysis of products to minimise the adverse effects on the environment resulting directly or indirectly from products
- Selecting products / services that have minimal effect on the depletion of natural resources and biodiversity
- Working more effectively with local suppliers to ensure they are encouraged to bid for the Council's business in line with the Procurement Policy
- Ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured.

### 3.10.2 Environmental Purchasing

Environmental purchasing is the inclusion of environmental factors in decisions on the purchase of products and/or services. It is sometimes called “green”, “sustainable” or “environmentally preferable” purchasing. The aim of considering environmental factors is to buy products or services that have less impact on the environment and human health than otherwise comparable products or services.

Council is committed to adopting a sustainable Procurement approach within the context of purchasing Best Value for Money. This includes but is not limited to the purchases of goods, services and works that use recycled or reusable content, are locally and ethically produced, are water or energy efficient, or use low impact materials.

Council prefers to purchase goods, services and works with independent Sustainability certification whenever they achieve the same function and Best Value for Money. Council will commit to actively reducing the use of plastic bags, packaging and other single use items across Council business.

Council may consider all or some of the following Environmental Sustainability factors during the Evaluation process:

- reduced energy and water consumption (which can reduce costs)
- improved resource use efficiency
- reduced waste (which can reduce waste disposal costs)
- reduced environmental health impacts of products and services
- reduced pollution
- markets for new environmentally preferable products
- “close the loop” on recycling, improving the viability of recycling
- providing leadership to the community
- encouraging industry to adopt cleaner technologies and produce products with lower environmental impacts
- encourage industry to minimise transportation of goods and services to reduce pollution omissions

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

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

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

| Score | Judgement                             |
|-------|---------------------------------------|
| 3     | Locally owned business                |
| 2     | Not locally owned with local presence |
| 0     | No local presence                     |

**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 a minimum of one of the three quotes for purchases between \$25,000 and \$150,000 for goods and services and \$200,000 for works 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.

### 3.12 Social Procurement

Social 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 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 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 procurement when engaging local suppliers, contractors and/or service providers and would seek Ministerial Exemption when the required works provide value for money to Council and would be advantageous to any of the following:

- Employment of disadvantaged groups
- Employment of Apprentices
- Employment of recognised Youth Traineeships
- Employment of Youth labour
- Benefits to local community

### 3.13 Diversity

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

### **3.14 Apply a Consistent and Standard Approach**

Council will provide effective and efficient commercial arrangements for the requisition of goods and services.

### **3.15 Standard Processes**

Council will provide effective commercial arrangements covering standard products and provision of standard services across Council to enable employees to source requirements in an efficient manner.

This will be achieved via establishing the following:

- Pricing where relevant;
- Processes, procedures and techniques;
- Tools and business systems (e.g. implementing the appropriate e-catalogue arrangements or e-sourcing arrangements);
- Reporting requirements;
- Application of standard contract terms and conditions.

### **3.16 Performance Indicators**

A list of performance indicators will be developed to measure procurement performance.

They will include criteria such as:

- The proportion of expenditure against corporate contracts;
- User and supplier satisfaction levels;
- Knowledge and skill of Council employees in procurement process;
- Level of compliance and understanding of Council procurement policies.

### **3.17 Management Information**

Council seeks to improve its performance by capturing and analysing procurement management information in a variety of areas, including:

- Volume of spend;
- Number of transactions per supplier;
- Supplier performance;
- User satisfaction;
- Category management; and
- Green spend

Council will also use external sources of management information to assist with the procurement decision making process including:

- Benchmarking data;
- Information from professional bodies such as the Chartered Institute of Purchasing and Supply Australia;
- Supplier reports.

### **3.18 Build and Maintain Supply Relationships**

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector

aggregated projects or panels, access State Government panel agreements or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.

### **3.18.1 Developing and Managing Suppliers**

Council recognise the importance of effective and open working relationships with its suppliers, and is committed to the following:

- Managing existing suppliers, via the appropriate development programs and performance measurements to ensure the benefits are delivered,
- Maintaining approved supplier lists,
- Developing new suppliers and improving the capability of existing suppliers where appropriate.

### **3.18.2 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 the larger more familiar businesses. Other types of organisations, offering business diversity include:

- Local businesses;
- Green suppliers;
- Small to medium sized enterprises;
- Social enterprises;
- Ethnic and minority business;
- Voluntary and community organizations; and
- Local Content.

### **3.18.3 Relationship Management**

Council is committed to developing constructive long-term relationships with suppliers. It is important that Council identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:

- Size of spend across Council;
- Criticality of goods / services supplier, to the delivery of Council's services;
- Availability of substitutes; and
- Market share and strategic share of suppliers.

### **3.18.4 Communication**

External communication is very important in ensuring a healthy interest from potential suppliers and partners to Council. The external website will provide:

- Information about Council and how to become an approved supplier;
- A list of existing and forthcoming contract opportunities, projected over a number of years;
- Guidelines for doing business with Council;
- Standard documentation used in the procurement process; and
- Links to other relevant sites.

## **3.19 Continual Improvement**

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.

### 3.20 Compliance Responsibilities

- Council staff
- Councillors
- Delegated Committees
- Contractors

### 4.1 Legislation

- *Local Government Act 1989/ 2020*
  - Section 186 of the 1989 Act (Power to enter into Contracts)
  - Section 186A of the 1989 Act (Procurement Policy)
  - Section 8 of the *Local Government Act 2020* (Role of a Council)
  - Sections 208A of the 1989 Act (Best Value Principles)
  - Sections 126, 127, 128, 129, 130 and 131 of the *Local Government Act 2020* (Conflicts of Interest)
  - Section 11 of the *Local Government Act 2020* (Delegations)
  - Section 140 of the 1989 Act (Accounts and Records)
- The relevant provisions of the Competition and Consumer Act 2010

### 4.2 Section 186 – Restriction on power to enter into contracts

(1) Before a Council enters into a contract for the purchase of goods or services, or for the carrying out of works, to the value of \$100 000 (or such higher amount as may be fixed by Order in Council) or more, it must—

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

(2) If a Council invites expression of interest-

- (a) it must register those expressions of interest; and
- (b) when it is ready to enter into the contract, it must invite tenders from some or all of those who registered their interest in undertaking the contract (or the part of the project to which the contract relates).



#### 4.3 Orders in Council (Victorian Government Gazette - 7 August 2008 – 1908 G32)

**Local Government Act 1989**  
ORDER FIXING THE VALUE OF  
CONTRACTS FOR WHICH A  
PRIOR PUBLIC TENDER IS TO BE  
CONDUCTED BY LOCAL COUNCILS

Order in Council

The Governor in Council under section 186(1) of the **Local Government Act 1989** sets the value of –

- a) \$150,000 for contracts for the purchase of goods and services; and
- b) \$200,000 for contracts for the carrying out of works,

for which a Council must, before entering into the contract, give public notice of the purpose of the contract and invite tenders from any person wishing to undertake the contract, or give public notice of the purpose of the contract or the project to which the contract relates and invite expressions of interest from any person interested in undertaking the contract or all, or any part of, the project.

This Order comes into operation on the day it is made.

Dated 5 August 2008

Responsible Minister

RICHARD WYNNE MP

Minister for Local Government

RYAN HEATH  
Clerk of the Executive Council

#### 4.4 Associated Documents

- Victorian Local Government Best Practice Procurement Guidelines 2013
- Councillor Code of Conduct
- HR-07 Code of Ethics and Conduct
- Ballarat Industry Participation Program
- GV-04 Gift and Hospitality Policy
- Social Procurement: A Guide for Victorian Local Government

#### 4.5 Charter of Human Rights Compliance

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

#### 4.6 Definitions

|   |  |
|---|--|
| <b>Act (The)</b>                                      | Local Government Act 1989 (as amended)   |
| <b>Ballarat Industry Participation Program (BIPP)</b> | A program adopted by the Ballarat City Council which seeks to maximise the local content achieved through Council’s procurement processes.   |
| <b>Confidential information</b>                       | private commercial information, being information provided by a business, commercial or financial undertaking that—<br>(i) relates to trade secrets; or<br>(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;  |
| <b>Conflict of Interest</b>                           | 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   |
| <b>Contract</b>                                       | 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. A contract is to be distinguished from a ‘contract pursuant to section 186 of the Local Government Act’  |
| <b>Contract Documents</b>                             | Documents construed together as an instrument of contract. They may include terms & conditions, specifications, drawings, tender responses, delivery schedules and payment schedules   |
| <b>Contract Management</b>                            | The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.  |
| <b>Contractor</b>                                     | Respondent (person, firm etc) whose tender/quotation offer has been accepted by the council with or without modification   |
| <b>Council Staff</b>                                  | Includes full time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.  |
| <b>CSR Practices</b>                                  | Corporate Social Responsibility. Relates to Council’s supply chain being ethical, knowledgeable, reputable and where possible supporting green and sustainable products.   |
| <b>Emergency</b>                                      | <ul style="list-style-type: none"> <li>• Any urgent circumstance which may present a risk to public health and/or safety</li> <li>• The failure of a ‘key service provider’</li> <li>• Significant damage to municipal building (where it is no longer safe)</li> <li>• Major business disruptions such as an extensive IT failure resulting in a loss of services to the community</li> </ul> |

|                                 |  |
|---------------------------------|--|
| <b>Evaluation Criteria</b>      | 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  |
| <b>Expression of Interest:</b>  | 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  |
| <b>Late Tender</b>              | A late tender is one that it is not received in the Tender Box prior to the advertised closing date/time.  |
| <b>Local Content</b>            | Defined as labour, materials, plant and supervision which are sourced from within the following municipalities: <ul style="list-style-type: none"> <li>• Ararat Rural City Council,</li> <li>• Ballarat City Council,</li> <li>• Golden Plains Shire Council,</li> <li>• Hepburn Shire Council,</li> <li>• Moorabool Shire Council,</li> <li>• Pyrenees Shire Council.</li> </ul>  |
| <b>Prepayment</b>               | A payment made for goods/services prior to any works being undertaken  |
| <b>Probity</b>                  | 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.   |
| <b>Procurement</b>              | 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. |
| <b>Specification</b>            | 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   |
| <b>Standing Offer Agreement</b> | 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.   |

|                             |   |
|-----------------------------|---|
| <b>Sustainability</b>       | 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.   |
| <b>Tender</b>               | 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   |
| <b>Tender Opening Panel</b> | Will consist of three Council officers, ideally one of which should be a Senior Manager   |
| <b>Tender Process</b>       | 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.  |
| <b>Treatment of GST</b>     | All monetary values stated in this policy include GST; unless specifically stated otherwise.  |
| <b>Value for Money</b>      | 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"> <li>• contribution to the advancement of the Council’s priorities, including the Ballarat Industry Participation Program;</li> <li>• 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.</li> </ul> |
| <b>Variance</b>             | 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.   |

#### 4.0 Policy owner

The owner of this policy is the Chief Executive Officer. Enquiries regarding this policy should be directed to Council’s Manager Revenue & Procurement Services.

#### 5.0 Authorisation

Adopted by Ballarat City Council on 16 December 2020. R295/20.

## Appendix 1 – Occupational Health & Safety Schedule

|     |   | YES                      | NO                       |
|-----|---|--------------------------|--------------------------|
| 1.1 | Does your organisation have >\$20 Million <b>Public Liability Insurance</b> ?<br>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 <b>Product Liability Insurance</b> ?<br>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 <b>Professional Indemnity Insurance</b> ?<br>If Yes, please provide a copy of Certificate of Currency         | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.4 | Is your organisation <b>WorkCover Certified</b> ?<br>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?<br>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 <b>AS/NZS 4801, OHSAS 18001 or ISO 45001</b> ?<br>If Yes, please provide a copy of your certification and evidence of most recent audit | <input type="checkbox"/><br>15<br>Points | <input type="checkbox"/><br>0<br>Points |

### If yes move to section 4

|     |   | YES                                       | NO                                      |
|-----|---|---|---|
| 3.1 | <b>MANDATORY</b> - Do you have an Occupational Health & Safety Policy?<br>If Yes, provide a copy of the policy  | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |
| 3.2 | Do you have and use an OH&S Manual or Work Plan?<br>If Yes, provide a copy of the front page and contents page  | <input type="checkbox"/><br>2.0<br>Points | <input type="checkbox"/><br>0<br>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?<br>If Yes, please provide a copy.                       | <input type="checkbox"/><br>1.5<br>Points | <input type="checkbox"/><br>0<br>Points |
| 3.4 | Are records kept of operator training, inductions and competencies, such as licences and qualifications?<br>If Yes, please provide a register of relevant qualifications and Licenses       | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |
| 3.5 | Do you have and use procedures for identifying, assessing and controlling manual handling risks?<br>If Yes, please provide a copy of procedure.   | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |
| 3.6 | Do you have and use procedures for storing and handling hazardous substances? This also includes office based substances.<br>If Yes, please provide a copy of hazardous substance register. | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |
| 3.7 | Do you have a Roles & Responsibility Plan?<br>If Yes, please provide a copy.  | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |
| 3.8 | Is there a formal mechanism for OH&S consultation in your Organisation?<br>If Yes, please provide a copy of recent OH&S minutes or toolbox meeting.   | <input type="checkbox"/><br>0.5<br>Point  | <input type="checkbox"/><br>0<br>Points |

|      |   |  |   |
|------|---|--|---|
| 3.9  | Do you have and use procedures by which employees can report hazards?<br>If Yes, please provide details below and a recent example.   | <input type="checkbox"/><br>0.5<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.10 | When a hazard is identified, do you conduct a risk assessment of that hazard?<br>If Yes, please provide a copy of your Risk Assessment form.  | <input type="checkbox"/><br>0.5<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.11 | Do you have an Incident Investigation Procedure and Incident Reporting form?<br>If Yes, please provide a copy of each.  | <input type="checkbox"/><br>0.5<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.12 | Do you use Equipment inspection checklists?<br>If Yes, please provide a copy of inspection checklist.   | <input type="checkbox"/><br>1.5<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.13 | Do you use workplace inspection checklists?<br>If Yes, please provide a copy of inspection checklist.   | <input type="checkbox"/><br>1.0<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.14 | Does your business have and use any permit to work systems?<br><i>For example, hot works, electrical isolation and working at heights etc.</i><br>If Yes, please provide an example of a recent permit. | <input type="checkbox"/><br>1.0<br>Point | <input type="checkbox"/><br>0<br>Points |
| 3.15 | Do you have elected Health & Safety Representatives (HSR)?<br>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"/><br>0.5<br>Point | <input type="checkbox"/><br>0<br>Points |

|     |   | Number   | Points                 |
|-----|---|--|------------------------|
| 4.1 | Have you had any prosecutions for breaches of the OHS Act 2004 in the last 5 years?<br><br>Detail:                          | 0<br>1<br>2<br>3+                                  | 10<br>5<br>1<br>0      |
| 4.2 | Have you had issued any enforceable undertakings in the last 5 years?<br><br>Detail:  | 0<br>1<br>2<br>3+                                  | 10<br>5<br>1<br>0      |
| 4.3 | Value of enforceable undertaking:<br><br>\$   | \$0-10,000<br><\$50,000<br><\$100,00<br>>\$100,000 | 10<br>5<br>1<br>0      |
| 4.4 | How many improvement notices or prohibition notices have you had in the last 5 years:<br><br>Number:                        | 0-5<br>6-10<br>11-15<br>16-20<br>20+               | 10<br>9<br>8<br>7<br>5 |
| 4.5 | How many notices in the last 5 years have you had that required you to cease work until issue was rectified:<br><br>Number: | 0<br>1<br>2<br>3+                                  | 10<br>5<br>1<br>0      |
|     |   | Total = X/10                                       |                        |