



# Procurement policy

<b>Classification</b>	Policy
<b>Strategic reference</b>	Goal 4 Governance and Organisational Structure
<b>Relevant legislation</b>	Local Government Act 1999
<b>Relevant documents</b>	Internal Financial Control Policy Asset Management & Accounting Policy Prudential and Strategic Decision Making Policy Corporate Purchase Card Policy Risk Management Policy
<b>Responsible officer</b>	Manager Corporate Services
<b>Date adopted</b>	March 2023
<b>Next review date</b>	March 2026

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## 1 Introduction

This document sets out Southern Mallee District Council's policy for the acquisition of goods and services. The policy applies to the procurement of all goods, equipment and related services, construction contracts and service contracts (including maintenance).

All Council purchases must be carried out in compliance with the [Local Government Act 1999](#) (the "Act").

Section 49 (a1) of the Act requires Council to develop and maintain procurement policies, practices and procedures directed towards:

- a. Obtaining value in the expenditure of public money; and
- b. Providing for ethical and fair treatment of participants; and
- c. Ensuring probity, accountability and transparency in the procurement operations.

Section 49 (1), requires Council to prepare and adopt policies on contracts and tenders on:

- a. the contracting out of services; and
- b. competitive tendering and the use of other measures to ensure services are delivered cost effectively; and
- c. the use of local goods and services; and
- d. the sale or disposal of land or other assets.

Section 49(2) of the Act requires that this policy must:

- a. identify circumstances where the Council will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or disposal of land or other assets; and
- b. provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and
- c. provide for the recording of reasons for entering into contracts other than those resulting from the tender process; and
- d. be consistent with any requirement prescribed by the regulations.

In conjunction with Council's Prudential and Strategic Decision Making Policy this policy is to be used as a guide, to enable Council officers to implement procedures and day-to-day practices in acquiring goods and services. It applies to the procurement of goods, equipment and related services, construction contracts and service contracts (including maintenance).

It does not cover:

- non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts;
- the disposal of land and other assets owned by Council; or
- the purchase of land by Council.

## **2 Policy objective**

Council's purchasing activities aim to achieve advantageous procurement outcomes by:

- 2.1 enhancing value for money through fair, competitive, non-discriminatory procurement;
- 2.2 promoting the use of resources in an efficient, effective and ethical manner;
- 2.3 ensuring decisions are made with probity, accountability and transparency;
- 2.4 advancing and/or working within Council's economic, social and environmental policies and/or agreements in accord with Council's Strategic Management Plan;
- 2.5 providing reasonable opportunity for competitive local businesses to supply to Council;
- 2.6 appropriately managing organisational and safety risk; and
- 2.7 promoting compliance with all relevant legislation.

## **3 Responsibility**

Council employees responsible for purchasing goods and services must comply with this policy. It is the responsibility of Council employees involved in the procurement process to understand the meaning and intent of the policy.

## **4 Procurement principles**

Council employees must have regard to the following procurement principles in all purchasing activities:

### ***4.1 Open and effective competition***

Purchasing should be open and result in effective competition in the provision of goods and services. Council must give fair and equitable consideration to all prospective suppliers.

### ***4.2 Value for money***

Council employees must harness its purchasing power to achieve the best value for money, recognising the concept of value for money is not restricted to price alone. The value for money assessment must include consideration of:

- i. the contribution to Council's strategic plan and other priorities;
- ii. the performance history and quality, scope of services and support of each prospective supplier;
- iii. compliance with the statement of requirement, fitness for purpose, and warranty;
- iv. relevant direct and indirect benefits both tangible and intangible;
- v. efficiency and effectiveness of the procurement activity;
- vi. whole-of-life costs including costs of acquiring, using, maintaining and eventual disposal;
- vii. ability to deliver and/or meet critical timelines;
- viii. the flexibility to adapt to change over the lifecycle of the service or item;
- ix. Council's administration or overhead costs;
- x. risk exposure of alternatives;
- xi. all safety aspects to be met to maximise the safety of staff and the public through the life of the project and or asset;
- xii. environmental costs and/or benefits; and
- xiii. the evaluation of contract options (for example, contract extension options).

#### ***4.3 Ethical behaviour and fair dealing***

Council employees involved in purchasing are to:

- i. behave with impartiality, fairness, independence, openness, integrity, and professionalism in their discussions and negotiations with suppliers and their representatives;
- ii. provide all prospective suppliers with:
  - equal opportunity to supply to Council;
  - straight forward and user friendly specifications or requests;
  - clear and easy to understand evaluation criteria;
  - consistent processes and feedback on decision making;
  - effective communication and provision of information; and
  - access to a timely and effective complaints resolution procedure.

#### ***4.4 Probity, accountability, compliance, transparency and reporting***

Council requires that its employees be answerable for the outcomes outlined and approved in the annual budget. All procurement shall be undertaken in a manner that ensures:

- clearly established roles and responsibilities;
- appropriate documentation and record keeping;
- transparency of decision making;
- adherence to all relevant legislation and codes of conduct;
- the identification and management of potential conflicts of interest; and
- the confidentiality of commercial information accessed during the purchasing process.

#### ***4.5 Encouragement of the development of competitive local business and industry***

Where the evaluation criteria are equivalent, the following areas may be considered in evaluating offers made by suppliers:

- creation of local employment opportunities and/or economic growth in the local area;
- increased availability of local servicing support;
- increased convenience of communications with the supplier; and
- the short and long term impact of the procurement on local business.

#### ***4.6 Environmental protection***

Council will seek to:

- adopt purchasing practices which conserve natural resources;
- align Council's procurement activities with principles of ecological sustainability;
- purchase recycled and environmentally preferred products where possible;
- integrate relevant principles of waste and energy minimisation; and
- provide leadership to business, industry and the community by promoting the use of environmentally friendly goods and services.

#### **4.7 Contractors**

Council will provide services to the community in the most efficient, effective and economical manner possible. This may involve the use of external contractors who are captured in Council's preferred contractors register with current insurance policies in place, including professional indemnity as required. External contractors are obliged to comply with all relevant legislation, codes of practice and Australian standards, in particular those related to Work Health and Safety. Council will manage all contractors in line with WHS policies and procedures for contractor management.

#### **4.8 Identification and management of risk**

Risk management is integral in ensuring value for money and that procurement activities do not expose Council to increased/unnecessary risk. Council will manage risk in line with Council's Risk Management Framework and Policy.

Consideration must be given to the following:

Risk assessment:

- Ensure appropriate practices and procedures of internal control and risk management are in place including risk identification, assessment, implementation of controls and pre purchase checklists for plant and hazardous chemicals.
- Assessing a potential supplier's capacity and capability to meet Council's requirements and identify any other factors which might result in works, goods or services not being successfully delivered.

Risk based approach to market:

- Approach to the market will be influenced by procurement risk assessments, with high risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

Work Health Safety (WHS):

Council is committed to achieving a high level of pro-active Work Health and Safety (WHS) management during its procurement processes and on-going management of services and contracts. Council seeks to engage service providers and contractors who can demonstrate appropriate WHS & Injury Management Systems (WHS&IMS) capability that, at a minimum, meet Council's WHS&IMS standards which will optimise safety management for employees utilised by Council. As a minimum, this will be:

- Compliance to the Work, Health and Safety Act (SA) and all associated Regulations, Codes of Practice and Standards;
- Cooperating with any safety policies, procedures and information provided by Council; and
- Identifying hazards associated with work being undertaken and ensuring all identified hazards are managed in accordance with the WHS legislation.

### **5 Method of purchase**

Generally, open and fair competition is best achieved by undertaking a tender process where all interested parties have an opportunity to bid and provide goods and services to Council. However, there may be procurements in which a tender process will not necessarily deliver the most advantageous or cost effective outcome for the Council – in such instances, other market approaches may be more appropriate.

There is no single set of rules for determining the method used to undertake any particular purchase. Council officers must exercise judgment and common sense in determining how the purchase should be undertaken, and fully document the approach taken. The following provides a framework based on the value of the purchase with expenditure control maintained through Council's delegation framework. Procedures to be followed in each of the options outlined below are provided for staff undertaking procurement activities.

### **5.1 Direct purchasing**

Used for Council purchases from a single established source or provider without first obtaining competing bids. This method is suitable for low value, low risk goods and services, and where the supplier already has a successful service history or contract with the Council.

### **5.2 Quotations (Informal)**

Used where Council obtains quotations from prospective suppliers. Written and verbal quotations may be sought. If a written quote cannot be obtained, Council **must** keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote. This method of purchasing is suitable for low value, low risk goods and services.

### **5.3 Request for quotations (RFQ)**

Used where Council obtains written quotations from prospective suppliers with the minimum sought governed by the values identified in tables below. This method is generally suitable for simple, largely price-based purchases.

### **5.4 Request for expressions of interest (REOI)**

Used where Council issues an open invitation for proposed goods and/or service. This method may be used where there is potentially a large market for the proposed goods and/or service, and the Council intends to prepare a short list of suppliers to invite them to participate in a tender process.

### **5.5 Request for tender (RFT)**

Used where Council issues a tender for a proposed goods and/or service. Council may issue a “select” request for tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers.

### **5.6 Panel contracts**

Used where Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this policy, and can include either:

- a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
- the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

Once a panel has been established, Council may purchase the particular goods and/or service through such panel arrangements.

### **5.7 Strategic alliances**

Used where Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

- LGA Procurement
- Procurements Australia
- State Government contracts

## 5.8 Justification of choice of procurement method

The appropriate procurement method will be determined on a case by case basis.

Participation in the procurement process imposes costs on the Council and potential suppliers. These costs will be considered when determining a process commensurate with the scale, scope and relative risk of the proposed procurement.

Staff will select a method of approaching the market which is best suited to the procurement. Determining the best method in the circumstances will generally be based on the consideration of the following:

- The value of the procurement which will be calculated as follows:
  - *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);
  - *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
  - *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- The cost of an open market approach versus the value of the acquisition and the potential benefits;
- The particular circumstances of the procurement activity;
- The size of the market and the number of competent suppliers;
- Council's leverage in the marketplace;
- Critical timelines for delivery of the service/item;
- Assessment of the risks associated with the activity and/or project.

Written reasons for utilising a specific procurement method in each activity must be recorded.

## 6 Considerations for Council

All purchases must be preceded by either a purchase order or a contract, except:

- The use of petty cash;
- The use of corporate credit cards (purchases made with a credit card are subject to Councils Corporate Purchase Card Policy);
- Fees and services including:
  - Fees or payments imposed under any Act; i.e. Valuer general valuation services, NRM levies, solid waste levies, Development Act Distribution fees, Dog and Cat Management Board fees;
  - Utility services where Council has entered into an agreement with the supplier or is bound by occupation to pay for services (water rates, electricity, gas, postage, telephone);
  - Legal fees;
  - Annual Insurance premiums;
  - Insurance and freight charges that are minor and incidental to the purchase of goods;
  - Payment pursuant to any award binding upon a Council;
  - Payment pursuant to any court order binding upon a Council;
  - Payment pursuant to Payroll Creditors (Union, Social Club and other deductions);
  - Motor registration payments;
  - Quarry royalties (recipient created invoice);
  - Annual subscriptions and membership fees to the Local Government Association and other local government regional groups (identified separately within the current budget);
  - Councillor's allowance, Council's Council Assessment Panel members and Audit Committee members fees;
  - Staff and volunteer reimbursements;
  - Refunds of overpayments on rates/dogs/development applications;

- Annual licence fees – such as pipe under railway line and DEWNR – licence [water licences]
- Contracted services – i.e. cleaners
- Any amounts as specified in Memorandum of understandings (MOU's);
- Council grant's - successful recipients; and
- Minor purchases under \$1000.

The appropriate method of procurement will be determined by reference to a number of factors, including the value of the purchase. The purchase tables below provide guidance.

#### 6.1 Single purchases under \$100,000.00

Estimated Value of Purchase (ex GST)	Suggested Method of Procurement	Agreement Type
\$1 - \$1000	Direct purchases	
\$1001 - \$15,000	At least 1 quotation written or verbal quotations, obtaining best price, taking into account quality of goods and services, past experience, freight, urgency of delivery.	Purchase Order and/or Contract/Agreement
\$15,001 - \$50,000	Written quotes or RFQ requested from <ul style="list-style-type: none"> <li>• at least two (2) suppliers</li> <li>• existing third party contracts</li> <li>• strategic alliances</li> </ul> And direct negotiation with preferred supplier(s) where market is known to be limited Or by Open/Select/Limited/Staged Tender	Purchase Order and/or Contract/Agreement
\$50,001 - \$100,000	Written quotes or RFQ requested from: <ul style="list-style-type: none"> <li>• at least three (3) suppliers</li> <li>• existing third party contracts</li> <li>• strategic alliances</li> </ul> Or by Open/Select/Limited/Staged Tender	Purchase Order and/or Contract/Agreement

Records of verbal offers received that include company, contact, date received, price and any other relevant detail must be maintained electronically or in hard copy.

Records of offers received and deliberations in making a decision must be kept on file.

#### 6.2 Purchases above \$100,001.00

Council Policy requires that Council invite tenders before making a contract for the carrying out of work, or the supply of goods or services involving a cost of more than \$100,001.00.

Greater than \$100,001	Tender from: <ul style="list-style-type: none"> <li>• preferred suppliers</li> <li>• strategic alliances</li> </ul> Or by Open/Select/Limited/Staged Tender	Purchase Order and Contract/Agreement
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The invitation must be made through either Tenders SA online tendering; LGA Procurement; another electronic method nominated by the Council; or an appropriate manual system. All tenders, other than those on the Tenders SA online tendering portal and LGA Procurement portal may be advertised in the Advertiser newspaper and local media allowing at least 14 days from the day of the advertisement for the submission of tenders.

Records that relate to the procurement from the establishment of the business case, any acquisition planning, records of relevant conversations, all tender documentation, tenders received, the evaluation, successful and unsuccessful letters, copies of the resultant order must be kept in an appropriate records management system.

## **7 Delegated purchasing authority**

Council makes delegations to the Chief Executive Officer under division 4 of the Act, including the power or function to expend approved budget funds. The power may be sub-delegated by the Chief Executive Officer to other Council staff.

Procurement limits for staff are identified in Schedule 1 – Procurement Delegations. Only Council staff with delegated authority under section 137 of the Local Government Act 1999 can incur expenditure on behalf of Council.

By signing a purchase order all officers are confirming that they have taken full notice of this policy and will comply with all of the requirements of this policy and the appropriate Council guidelines and procedures. In recognition of Council's organisation structure and commitment to prudential financial management, the Office of the Chief Executive Officer will hold a register of financial delegations. This will include, but is not limited to: position title; incumbent (officer); financial limit; and effective date.

Council will delegate power to the Chief Executive Officer to manage the register at their discretion while taking into consideration changes in officers and/or appropriate financial delegation. The delegation power and functions may be exercised individually (at the Chief Executive Officer's discretion) by each Council officer in respect of any particular matter where the officer is required or proposing to act in the course of their duties.

## **8 Fuel cards and store accounts**

It is acknowledged that due to the large expanse the Council area covers, resulting in remote locations of work groups and offices, both fuel cards and store accounts are required for minor purchases by all staff to ensure business efficiency.

All staff must only make purchases using fuel cards and store accounts for the business purposes of Council. Any staff member who uses a fuel card or store account inappropriately will have access withdrawn and may be subject to disciplinary action.

Regular audits and stock takes of purchases made via this method will be undertaken.

## **9 Evaluation of projects**

Where the contract value in terms of expected recurrent or capital expenditure of any purchase exceeds an amount set by Council for the purposes of Section 48 of the Act, Council will as per its Prudential and Strategic Decision Making Policy obtain and consider a report that addresses any potential prudential issues before the final contract, agreement, Memorandum Of Understanding, Deed or other form of undertaking is executed.

## 10 Exemptions

Council may be exempt from the requirement to seek tenders or quotations, if:

- a. there is a significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property, or
- b. the pressures of time are such that an open call is not feasible, such as where there has been an unanticipated Council or Government policy decision; or
- c. Council purchases goods at an auction; or
- d. Council purchases second-hand goods; or
- e. the purchase is made with, or under an arrangement with or made by:
  - the State, a government entity, a local government owned corporation, another local government, Local Government Corporate Services (LGCS Pty Ltd) or Procurement Australia; or
  - another Australian Government, an entity of another Australian Government or a local government of another State or a Territory; or
- f. Council resolves to enter into a contract using a significant purchasing activity plan which must state:
  - the objectives of the purchase and how they will be achieved; and
  - alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
  - a risk analysis of the market from which the goods or services are to be procured.
- g. A situation presents itself wherein a contractor or consultant has considerable background knowledge and experience or specialist expertise on that particular Council project or asset, eg. an extension of a previous project. In such situations, the procurement of assets, goods, works or services on negotiated fees and terms through that consultant or contractor alone may be deemed sound and advantageous to the project. This could include engaging the contractor or consultant on a retainer basis or a specified period.

A request for waiver of competitive process should not be viewed as a mechanism to speed up processes in a way that will not stand up to rigorous scrutiny nor as a mechanism to obviate the need for careful forward planning. The granting of waiver of competitive process must be appropriately documented and approved by the Authorised Officer.

Council may at any time alter this policy, or substitute a new policy or policies (but not so as to affect any process that has already commenced).

## 11 Emergency purchases

For emergency or urgent circumstances a member of the Executive Team may exercise their authority to initiate purchases.

- For the purpose of this clause, emergency or urgent circumstances must relate to: Avoiding or minimising risk to the Council;
- Addressing genuine concerns for public safety, health and wellbeing;
- Protection of security of Council's assets;
- Invoking of an Emergency Response Plan, and or the Business Continuity Plan;
- Unforeseen or sudden situations that arise and require an urgent response; or
- Disaster – disrupts the functioning of a community or society including:
  - Natural – bushfires, earthquakes, floods etc
  - Technological – chemical release, power outages, natural gas etc
  - Man-made – riots, protests, terrorism etc
  - Pandemics

Where a purchase is made under this Clause, the following will apply:

- The expenditure must be within the Delegated Financial Authority;
- The expenditure should be limited to that required to alleviate the emergency situation only;
- Council's Officers must ensure that appropriate methods of purchasing are resumed as soon practicable (i.e. purchase order generated, quotations sought for remainder of the work other than that required for emergency response);
- A full budget update report and actions taken will be provided to Council as soon as practical after the event.

## **12 Receipting and opening tender submissions**

Council will observe procedures for the receipt and opening of all tender submissions which guarantee fairness and impartiality.

All tenders are to be assessed in the presence of at least two staff nominated by the Authorised Officer.

The Council must not penalise any potential supplier whose tender submission is received after the specified deadline if the delay is solely due to mishandling by the Council.

If Council provides potential suppliers with an opportunity to correct unintended errors of form between the opening of tender submissions and any decision, the Council must provide the same opportunity to all participating potential suppliers.

Council must only give further consideration to a tender submission if at the time of assessing the tender submission it included the minimum content and format of tender submissions as stated in the request documentation issued. That is, the tender submission must be in a form meeting the required format and include all required information, statements, certifications and declarations.

## **13 Policy review**

The effectiveness of this policy will be reviewed every three years or as necessary.

## **14 Further information**

This document is available on Council's website [www.southernmallee.sa.gov.au](http://www.southernmallee.sa.gov.au) and at the principal office of the Southern Mallee District Council at Day Street, Pinnaroo SA 5304.

A copy of this document may be purchased from Council.

## Schedule 1 – Procurement Delegations

The following positions have the authority to commit funds through authorising requisitions for the purchase of goods and services on behalf of the Council for the following amounts:

- Chief Executive Officer – up to \$250,000 subject to budget allocation.
- Managers – up to \$50,000 limited authority subject to budget allocation for items to be charged against own budget area.
- Coordinators – up to \$10,000 limited authority subject to budget allocation for items to be charged against own budget area.
- Employees – up to \$1000 limited authority subject to budget allocation.

Amounts stated above and in the below table are excluding GST.

The above authorities also apply to positions appointed in an acting capacity.

APPROVAL DELEGATION THRESHOLDS (Excluding GST)	
Council	Limit > \$250,000
Chief Executive Officer	Limit < \$250,000
Managers	Limit < \$50,000
Coordinators	Limit < \$10,000
Employees	Limit < \$1,000