

Policy

PROCUREMENT POLICY

TEAM:	Finance
RESPONSIBILITY:	Group Manager Business Support
ADOPTED:	27 February 2020
REVIEW:	Every three years, or as required
CONSULTATION:	Internal consultation undertaken
RELATED DOCUMENTS:	<p>Council documents: Ashburton District Civil Defence Plan, Climate Change Policy, Conflicts of Interest Policy, Delegations Manual, Economic Development Strategy and Action Plan, Fraud and Corruption Policy, Health & Safety Approved Contractor Booklet, Long-Term Plan 2018-28, Sensitive Expenditure Policy, Significance and Engagement Policy, Transportation Procurement Strategy.</p> <p>Relevant legislation includes but is not limited to: Building Act 2004, Construction Contracts Amendment Act 2015, Consumer Guarantees Act 1993, Commerce Act 1986, Fair Trading Act 1986, Contract and Commercial Law Act 2017, Health and Safety at Work Act 2015, Human Rights ACT 1993, Public Finance Act 1989, Financial Reporting Act 2013, Privacy Act 1993, Official Information Act 1982, Land Transport Management Act 2005, Local Government Act 2002, Local Government Official Information and Meetings Act 1987, Resource Management Act 1991, Public Audit Act 2001, Public Records Act 2005.</p> <p>Central Government guidelines, include but are not limited to: Ministry of Business, Innovation and Employment, Government Procurement Rules, 4th edition, June 2019 Ministry of Economic Development, Guide 4 to Sustainable Procurement, July 2010 Ministry of Economic Development, Mastering Procurement, March 2011 Office of the Auditor General, June 2007, Managing Conflicts of Interest: Guidance for Public Entities Office of the Auditor General, June 2008, Procurement guidance for public entities Office of the Auditor General, October 2010, Guidance for members of local authorities about the local authorities (Members' Interests) Act 1968</p>

Policy Objectives

This policy provides a framework to apply a consistent procurement practice across all activities, in alignment with the Council's vision, strategic priorities and community outcomes. The objectives of this policy are to:

1. Ensure purchasing decisions are consistent, transparent, fair and lawful
2. Deliver procurement outcomes that promote the social, economic, environmental, and cultural well-being of the Ashburton District community in the present and for the future
3. Ensure products, services and works are fit for purpose and are procured using commercially astute and appropriate processes.

Specifically, this policy aims to:

- Promote transparency in how the Council manages procurement
- Ensure procurement practices are consistent with legislation and the approach of central government
- Provide a framework for common understanding of Council procurement practices for potential suppliers.

Council staff should read this policy in conjunction with the internal Procurement Guidelines.

Definitions

Business case is a management tool that supports decision-making when undertaking a new project, or procuring a product or service. A business case will include background information, the expected benefits of the project, options considered, expected costs, resources required and an analysis of potential risks. The requirement for submitting a business case is usually met by Long-Term Plan or Annual Plan budget processes, or Council or committee reporting.

Council means Ashburton District Council, or a duly authorised Council officer.

Emergency procurement means procurement required as part of the response to a sudden unforeseen event, where life, health, property or equipment is at immediate risk, or in order to maintain Council's service delivery to the community.

Procurement is all of the business processes associated with purchasing, from the identification of needs to the end of a contract or the end of the useful life and subsequent disposal of an asset.¹ Procurement starts with identifying a need and planning how to proceed. It includes the specification and sourcing of products or services, negotiation and contracting, the management of supply arrangements, and it finishes with the disposal of products or when the service contracts or agreements come to an end.

Public value means the best available result for Ashburton District for the money spent. It includes using resources effectively, economically and responsibly, and taking into account the procurement's contribution to the desired result for current and future generations, including:

- Council's strategic priorities and community outcomes
- The four well-beings of social, economic, environmental and cultural significance

¹ Based on the definition provided by the Office of the Auditor General; Procurement Guidance for Public Entities - Good Practice Guide, published June 2008.

- The total costs and benefits of a procurement (i.e. total cost of ownership).

Promoting public value does not mean selecting the lowest price but rather the best possible outcome for the whole-of-life of the goods, services or works.

Sustainable procurement is procurement that meets Council's organisational objectives while having a positive impact on public value, i.e. improving social, economic, environmental, and cultural well-being.

Policy Principles

Council follows the 'Five Principles of Government Procurement' which are included in the Government Procurement Rules, 4th edition. These are detailed as the following principles 1-5. Council has chosen to add a sixth principle related to sustainability. This principle establishes Council's commitment to ensuring social, economic, environmental and cultural interests and outcomes are considered.

In making decisions on procurement, Council will consider these principles, along-side other decision-making considerations:

1. Plan and manage for great results

- Manage resources in an effective and efficient manner
- Promote efficient purchasing practices and minimise procurement costs
- Appropriately manage risks associated with procurement processes.

2. Be fair to all suppliers

- Ensure procurement processes are free from bias and real and/or perceived conflicts of interest
- Promote fair and transparent competition between capable suppliers.

3. Get the right supplier

- Provide accurate and relevant information to potential suppliers
- Build demanding but fair and productive relationships with suppliers.

4. Get the best deal for everyone

- Deliver best public value over the whole life of the goods, service or asset
- Ensure decisions are balanced and consider the social, economic, environmental, and cultural outcomes for the community.

5. Play by the rules

- Establish clear processes for identifying methods of evaluation and ensure these are followed
- Ensure purchases are made in an open, fair, transparent and accountable manner
- Identify and manage conflicts of interest.

6. Be sustainable

- Promote Council's commitment to achieving public value
- Consider minimising environmental impacts over the whole life of the goods/services/works
- Require suppliers to adhere to social responsibility practices, including legislative obligations to their employees.

Background

The provision of products, services and works by Council suppliers is essential for the delivery of infrastructure and services to the community. An effective procurement function can make a significant contribution to the following Council community outcomes:

- A balanced and sustainable environment
- A prosperous economy based on innovation and opportunity.

Council's approach to procurement is to firstly consider the principles set out in this policy. These principles align with the Government Procurement Rules, 4th edition. Council will ensure that where possible procurement processes consider the social, economic, environmental, and cultural well-being of current and future communities. Considering these well-being's in procurement contributes to the achievement of Council's community outcomes and strategic priorities. Generally, procurements that are more significant will lead to a greater consideration of the four well-being's.

Council acknowledges procurement processes should adapt to the changing needs of the Ashburton District, and of society as a whole. This policy is a high-level principles based document which provides flexibility to adjust procurement processes to changing needs.

Policy Statement

1. Scope

This policy applies to all supply arrangements of any value for products, services or works, procured by or on behalf of Council.

This policy does not apply to the following activities:

- The employment of staff (excluding the engagement of contractors and consultants to supply services);
- The acquisition or lease of land or buildings (excluding the design, construction or refurbishment of buildings);
- Disposals and sales of Council assets;
- Investments, loans, guarantees, or other financial instruments;
- Gifts, donations and grants;
- Licences and agreements regarding commercial operations carried out by third parties (traders) on Council property;
- Non-contractual agreements between public sector agencies, such as memorandums of understanding; and,
- Statutory or ministerial appointments.

2. Procurement planning

Council will ensure that procurement processes are well conceived and implemented, the right people are involved at the right time, and risks are identified and managed.

Council recognises that poor procurement planning can compromise the efficiency and effectiveness of its procurement process and this typically impacts both Council and suppliers.

Council will ensure that adequate preparation is made prior to market engagement to ensure that its requirements and procurement processes are clear, and that expenditure is budgeted in the applicable Annual Plan or Long-Term Plans. The extent and nature of procurement planning will be proportionate to the total value, complexity and risks associated with the procurement.

Purchases should only be made when there is an approved budget, and if the purchase is within delegated financial authority. Any major alterations to the purpose of a budget must be considered by Council.

3. Public value

Council will seek to achieve public value benefits across procurement processes. Resources will be used effectively, economically and responsibly. Procurement assessments will not default to the cheapest solution at the cost of promoting social, economic, environmental, and cultural outcomes.

Public value may be achieved by:

- Considering the contribution the goods, services or works make to achieving Council's community outcomes, and strategic priorities
- Considering all costs and benefits over the lifetime of the goods or service
- Looking for new and innovative solutions
- Seeking opportunities to promote local value
- Engaging with businesses with good employment practices
- Considering whole of life costs
- Assessing warranties and ongoing maintenance requirements

4. Local value

Council will seek to achieve local value benefits through its procurement activity. Local value benefits in procurement processes are where there is a value in community well-being of Ashburton District residents.

Typical examples of local value benefits are local employment, the utilisation of local resources, or local economic development.

Local outcomes may be achieved through:

- Creating opportunities for local businesses to participate. However, these opportunities will not preclude other suppliers
- Considering potential commercial and practical advantages in purchasing locally produced products and services
- Considering local outcomes when planning major procurement activities, packaging work for contracts, developing specifications and defining selection criteria.

Council staff are required to obtain at least one quote from a local supplier for all verbal and written quotes, and closed tenders. This applies when there is at least one known local supplier who offers the good or service required.

5. Sustainability

Council is committed to sustainability, striving to ensure procurement processes achieve the best public value. Embedding sustainability principles into Council's procurement framework will assist Council to procure goods, services and works that provide social, economic, and cultural benefits, and minimise damage to the environment.

Sustainability will be considered at every stage in the procurement lifecycle, starting with planning and specifying requirements, then in market engagement, selection of products and/or suppliers, and contracting with suppliers. The weight given to the sustainability criterion will be assessed on the needs of the individual project.

Sustainability objectives for procurement may include:

- Protecting human health
- Promoting fair working conditions
- Achieving local value
- Reducing soil, water and air pollution
- Reducing energy consumption and mitigating climate change
- Reducing water consumption
- Reducing materials, packaging and waste
- Protecting habitats and biodiversity.

6. Whole of life costs

Where practicable, Council shall take into account the whole of life costs rather than just the initial “up-front” cost. Typically this involves consideration of the cost of the initial purchase, plus implementation/transition, support and maintenance, operations, and end-of-life/disposal. From time to time, other costs and benefits may also be relevant in the selection decision.

7. Procurement types

A summary of the types of procurement is provided below:

Expenditure type	Purchase amount	Suggested procurement method
a) Minor	Less than \$10,000	Verbal or written estimates Direct purchase in certain circumstances Petty cash can be used for incidental purchases
b) Moderate	\$10,000 - \$74,999	Written quotes or estimates Direct purchase in certain circumstances
c) High	\$75,000 +	Open tender Closed tender in certain circumstances
d) Exceptions	Any	Closed tender or alternative methods Direct purchase in certain circumstances

a) Minor expenditure – less than \$10,000

Council may use verbal quotes or estimates when the transaction value is less than \$10,000. Council may purchase directly from a supplier for minor expenditure when the cost of seeking quotes or tenders would be impractical, or disproportionate to the benefits obtained.

b) Moderate expenditure - \$10,000 - \$74,999

Written quotes or estimates will be obtained for expenditure above \$10,000 but below \$75,000. Three quotes will be sourced with identical specifications and work scope.

c) High expenditure - \$75,000 or above or deemed ‘significant’ (Significance & Engagement Policy) or ‘high risk’

High expenditure is high value expenditure, or where the procurement of a goods, service or works is deemed 'significant' under Council's Significance and Engagement Policy or 'high risk' (refer to Council's Corporate Risk Policy).

Generally, high expenditure is where the value of goods or works proposed to be purchased exceeds \$75,000. An open request for tenders will be issued (unless the exceptions set out in this policy apply), which contains all of the information that suppliers need to prepare and submit a tender.

A detailed description of the goods or services being procured, key timeframes, required service levels, the procurement method and evaluation process will be available. If evaluation criteria are being used, an indication of the relative importance of each criterion will also be provided.

d) Exceptions

Council acknowledges there may be exceptional circumstances where the conditions in this policy cannot be met.

Circumstances for all types of expenditure where alternative procurement methods may be used:

1. The services required are specialist technical or professional services;
2. Council is part of a joint procurement process;
3. No acceptable responses were received through open competition for the same core requirements, carried out within the last 12 months;
4. The products, services or works are an addition to, and necessary for the complete delivery of an existing supply arrangement, provided that the original supply arrangement was openly advertised and a change of supplier cannot be made for economic, technical or practical reasons
5. The overall rates offered are the same or lower than that received through open competition for the same core requirements, carried out within the last 12 months.

Additional circumstances for moderate expenditure:

6. The required goods or services are available from only one supplier or provider;
7. Standardisation or compatibility with existing equipment or services is necessary or desirable.

Additional circumstances for high expenditure:

8. The goods or service are only available from a few suppliers;
9. It is not practical or cost-effective to conduct an open tender or proposal;
10. There is limited time for the procurement process.

The Chief Executive must approve any procurement exceptions where the value of the procurement is \$75,000 or above (high expenditure). Council must approve procurement exceptions valued above the Chief Executive's delegated authority as detailed in the Delegations Manual.

8. Procurement methods

e) Multi-stage procurement

Council may use an Expression of Interest (EOI) to shortlist potential suppliers before seeking detailed bids from the shortlisted tenderers. An EOI is generally used when the information required from tenderers is specific but Council is unsure of the capability of suppliers to provide the required goods and services.

A Request for Proposal may be used for a single or a multi-staged process and is used when the project or requirement has been defined, but where an innovative or flexible solution is sought.

f) Emergency procurement

In an emergency situation, it may be necessary to bypass some aspects of the normal procurement process. Circumstances that mandate emergency procurement will normally only be when:

- Life, property or equipment is immediately at risk; or,
- Standards of public health, welfare or safety need to be re-established without delay (such as disaster recovery).

Emergency procurement provisions will only be used in genuinely unforeseen circumstances. The Chief Executive will determine circumstances where emergency procurement is required.

g) Collective arrangements

Council may participate in collective buying schemes that offer public value, such as all of Government supply contracts. In these circumstances, competitive procurement is undertaken by the group as a collective.

h) Standing arrangements

Standing arrangements are procurement agreements where Council purchases goods or services directly from a provider for a fixed period of time. These can be either direct or established through open tendering. Council may set up standing arrangements after a competitive or negotiated process.

9. Late responses

Late tenders or quotations will not be accepted, unless there are exceptional circumstances that have been provided for in the original request for quote, tender or proposal. Late responses must not be accepted if the supplier may have knowledge of the content of any other response or if it would be unfair to any other supplier to accept the late response.

10. Suppliers

a) Prequalified suppliers

Council may assess suppliers of particular goods and/or services against predetermined criteria with no specific contract in mind. An example of this is Council's 'Approved Contractors' process which set health and safety minimum standards for contractors who wish to provide services to Council.

Pre-qualification does not form a contractual or legal relationship between Council and any supplier. While preliminary standard criteria may have been met, suppliers may still be required to meet other evaluation and performance criteria as part of any specific procurement processes.

b) Notifying unsuccessful suppliers

Unsuccessful tenderers for all moderate or high procurement will be notified as soon as practicable once a supplier has been selected.

Further information about the successful bid will be provided upon request, subject to the Council's Local Government Official Information and Meetings Act 1987 Requests Policy.

11. Contract requirements

Any contractual relationship undertaken by Council must meet industry standards, guidelines and best practice, as well as any applicable third party requirements. In the interest of achieving public value, Council expects suppliers to:

- Respect ethical standards in the context of their own working environment
- Respect fundamental human rights
- Treat employees fairly
- Act with integrity and transparency
- Maintain a safe working environment at all times
- Respect the intellectual property rights of others
- Consider the wider implications of their actions in terms of the four well-being's detailed in the Local Government Act 2002 (s.10).

12. Contract extensions, variations and renewals

When the additional costs of a service or project are small in comparison to the costs of undertaking a discrete tender process, a contract extension or variation may be used.

When extension and variations are not specifically provided for within an existing contract, the extension or re-definition of a contract that increases the originally approved contract value must be approved by the Chief Executive. When the additional sum is beyond the delegated authority of the Chief Executive, the contract must be presented to Council for approval.

The refining of service delivery contracts to more closely reflect the amount of work required to maintain services does not need to be openly tendered, but can be managed directly by the appropriate Council officer.