

PROCUREMENT POLICY REVIEW

Report Author: Executive Officer Strategic Procurement
Responsible Officer: Director Corporate Services
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

It is a requirement under Section 108 of the *Local Government Act 2020* (The Act), that Council must review its Procurement Policy at least once during each four-year term of the Council.

A review of the current Procurement Policy has been conducted by the Strategic Procurement team, along with key stakeholders across Council. This review process has resulted in some recommended changes to current policy.

These changes mainly relate to procurement purchasing threshold levels and the process for managing project variations, plus a few other minor changes have been proposed.

This report outlines the proposed changes to the policy. Please see Attachment 1 for the draft revised Policy.

RECOMMENDATION

That Council endorse the proposed revised Procurement Policy.

RELATED COUNCIL DECISIONS

The current version of the Procurement Policy (the Policy) was approved by Council on 14 December 2021, in accordance with section 108 of The Act.

DISCUSSION

Purpose and Background

The existing Procurement Policy was the first procurement policy to be enacted under the new Local Government Act 2020, and modified many of the standards, processes and procedures that were in place under the previous Local Government Act 1989.

The past two and a half years have provided an opportunity for the procurement team and their stakeholders to assess the suitability and effectiveness of these processes and procedures and to determine what has worked well, what has not worked as well as anticipated, and where some aspects may be improved.

This report outlines recommended changes to the Policy and provides supportive information relating to the impacts and benefits of these changes on Council's day-to-day operations.

Options considered

The options considered in the review of the policy were:

1. Continue with existing policy with no changes.
2. Reframe and fully rewrite the Policy into a much higher-level overview document and remove a lot of procedural information into a procurement manual and procurement guidelines.
3. Amend the business-critical aspects of the Policy to maximise business efficiencies and defer the more fulsome overhaul of the Policy to coincide with the Contract Management System upgrade and associated process changes.

Recommended option and justification

Option 3 is recommended. In parallel to the Policy review, the Procurement Transformation project is due for completion early 2025. Once the aspects of this initiative have been implemented, embedded, tested, and assessed, the improvements and efficiencies gained may help to inform and influence further aspects of the existing Policy, processes, and procedures.

Key Policy Changes

Changes to Procurement Spend Thresholds

The key changes relate to procurement spend between \$2,000 and \$50,000 (GST exclusive).

Table 1: Existing Policy Requirements

Estimated procurement spend (Excl GST)	Procurement requirement
Up to \$1,999	Best price available, verbal or written quote
\$2,000 to \$9,999	Obtain at least one written quotation – Quick Quote Process
\$10,000 to \$49,999	Obtain at least two written quotation - as part of a Request for Quote (RFQ) process
\$50,000 and <\$249,999	Obtain three or more written quotations, as part of a Request for Quote (RFQ) process
\$250,000 and above	Expression of Interest (EOI) or Tender Process

Table 2: Proposed Policy

Estimated total procurement spend (Excl GST)	Procurement requirement	Contract and Contract Number & Rapid Global Required	Purchase Order Required	Document Storage
Up to \$1,999	Best price available, verbal or written quote	Not required	Not required	Against Invoice, Credit Card reconciliation or Payroll Reimbursement record in Finance System
\$2,000 to \$19,999	Obtain at least one written quotation – Quick Quote Process	No	Yes	Attach quotes to Purchase Requisition in Finance System
\$20,000 to \$49,999	Seek three quotes in line with the Simple Quotes process	No, unless High Risk Rating	Yes	Attach quotes to Purchase Requisition in Finance System
\$50,000 and <\$249,999	Best endeavours to obtain three or more written quotations, as part of a Request for Quote (RFQ) process	Yes	Yes	Saved in Contract Management System (CMS)
\$250,000 and above	Expression of Interest (EOI) and / or Tender Process	Yes – via request to procurement	Yes	Saved in Contract Management System (CMS)

The primary changes proposed in Table 2 are:

- 1) For estimated spend \$2,000 to \$9,999 (GST exclusive)
 - a) expand the banding of the 'one written quote' requirement to spend between \$2,000 and \$19,999 (GST exclusive);
- 2) For estimated spend \$10,000 to \$49,999 (GST exclusive)
 - a) Change the requirement of "obtaining two written quotes via a formal Request for Quote (RFQ) process" for spend between \$10,000 and \$49,999, to "Seek three quotes in line with a Simple Quote Process (SQP)" for spend between \$20,000 and \$49,999 (GST Exclusive).
 - b) Remove the need for a formal contract to be put in place and rely on the quote and Yarra Ranges Council Purchase Order Terms and Conditions.
 - c) Remove the need for Rapid Global registration unless risk assessed at high or above; and
 - d) Introduce the mandatory requirement to perform a risk assessment prior to seeking the quotes, and if the risk outcome is High or greater, then seek Manager and Procurement team advice and guidance. This may result in a continuation through the Simple Quote Process, or it may result in the requirement to perform a formal RFQ process.
- 3) For estimated spend \$50,000 to \$249,999 (GST exclusive)
 - a) Change the word 'Obtain' to "Best endeavours to obtain" in the process requirement of sourcing three or more written quotations, as part of a Request for Quote (RFQ) process.

Reasons for Change:

Stakeholder Feedback:

The existing thresholds and processes required to source and engage suppliers in the banding between \$2,000 and \$50,000 (GST exclusive) are limiting, challenging and impractical to perform and adhere to, and create unnecessary workload that slows down the ability to deliver projects to the community in a timely way.

Productivity Gains:

The existing processes apply a level of rigour that is considered overly burdensome for the majority of purchases in the lower spend bands, which has a negative impact on officers' time and ability to deliver and respond as the community requires. The proposed changes will greatly assist with this, and the efficiencies and productivity gains associated will be considerable and tangible.

Economic pressures:

The changing economic landscape and impact on the supplier market over the past two years, has also impacted Council's ability to attract and engage quality suppliers

when faced with a process that may be considered overly onerous and time-consuming causing delays to the project and risk of pricing fluctuations.

Leadership accountability:

A requirement for increased autonomy and accountability of leaders in regard to financial management and budgeting has also been a factor in this change. ELT’s desire to increase the capability within Council’s leadership cohort has resulted in greater financial awareness and a readiness to take on more responsibility in regard to managing Community funds.

Procurement Review:

The Procurement Transformation Project is well underway and focussing on addressing how the service functions within Council. One of the key improvement areas is to introduce a ‘Self Service Capability’ model for spend levels less than \$250,000 (GST Exclusive). To achieve this, improved technology will support the proposed changes by automating as many of the manual processes, improving both efficiency and increasing compliance.

Changes to Contract Variations

The key changes within 9.8 Contract Variations section are in regard to the approvals process, as well as acknowledging and catering for the difference between project related contract variations, and variations that occur in contracts that are of a more complex, longer term, ongoing operational nature.

Existing Policy Requirements: 9.8.1 Approving contract variations

Table 3. Variation Type 1 – Current Process

Variation Type 1: Significant Contract Variations	
The cumulative value of all proposed variations is greater than 20% of the Original Contract Value (or greater than the approved contingency budget, whichever is the lower)	
Variation detail	Approved by
Contracts approved by Resolution of Council	ELT in accordance with the Capital Works budgeting review process
Cumulative variations greater than \$250K	CEO
Cumulative variations less than \$250K	Director

Table 4. Variation Type 2 – Current Process

Variation Type 2: All other Contract Variations that are not Type 1 (above)	
Variation detail	Approved by
The variation is within the approved budget(s) for the contract, and cumulative variations do not exceed the original contract sum by more than 20%	The revised Contract Value must be within the approving Officer’s financial delegation.
Onsite and minor variations <ul style="list-style-type: none"> • Low risk variation – the variation approval is required to ensure that there are no unnecessary interruptions or delays to the works or services; and • A written quote has been received 	Contract Manager with sufficient financial delegation NB - all variations are to be reported to the appropriate financial delegate for the revised Contract Value as soon as practicable.

Proposed Changes:

Table 5. Variation Type 1 – Proposed Process

Variation Type 1: Significant Contract Variations The cumulative value of all proposed variations is 20% or more of the Original Contract Value, including any contingency and provisional items:	
Variation detail	Approved by
Cumulative variations greater than \$500K	CEO
Cumulative variations greater than \$250K but less than \$500K	Director
Cumulative variations less than \$250K	Manager

Table 6. Variation Type 2 – Proposed Process

Variation Type 2: All other Contract Variations that are not Type 1 (above)	
Variation detail	Approved by
The variation is within the approved budget(s) for the contract, and one off or cumulative variations do not exceed the original contract sum by 20%.	The cumulative variation amount must be within the approving Officer’s financial delegation

Reasons for Change:

Stakeholder Feedback:

From introduction of the current policy, stakeholders have consistently advised that the requirements around seeking approval for project related Contract Variations is overly complex, impractical, very difficult to manage and adhere to, and has a detrimental effect on their ability to deliver projects to the community. This is predominantly apparent in relation to Capital Major Projects.

Delegation of Authority (DOA):

The requirements for variation approval in the current policy do not align with the approved Finance DOA standards and requirements within Council, diverging from the standard procurement approval processes as well. The proposed changes correct this misalignment and provide a greater level of autonomy in budgetary financial management in line with role responsibilities.

Economic pressures:

The changing economic landscape and impact on the supplier market over the past two years, has also impacted Council's ability to attract and engage quality suppliers when faced with a process that may be considered overly onerous and time-consuming causing delays to the project and introduce the risk of pricing fluctuations.

Productivity Gains:

The existing processes apply a level of rigour that has been deemed overly burdensome and unmanageable. This often has a negative impact on officers' time and their ability to deliver and respond as the community requires. The proposed changes will greatly assist with this, and the efficiencies and productivity gains associated will be considerable and tangible.

Procurement Review:

Yarra Ranges Council has two primary methods of delivery of Goods, Services and Works to the Community:

1. Projects
'Once off' in nature with clear start and finish dates, most often capital works, both Major and Minor projects, typically engineering focussed, higher number of tenders but essentially with a simpler procurement strategy and market engagement model required with standardised AS4000 type contract terms and conditions.
2. Operational
Ongoing in nature with multi-year contract terms, most often operational expenditure, both major and minor services encapsulating a variety of categories and specialist areas, large spend amounts with complex commercial models and bespoke legal terms and conditions.

Both methods require different procurement approaches, skills, experience, and knowledge when initially performing the sourcing activity as well as with Contract Management. When there is a requirement to vary an operational type of contract, there is a greater need for review and analysis, negotiation strategy, and even the potential for legal advice.

Often these contracts are not the AS4000 standard type of contract and therefore, changing elements within them requires a different level of experience, skills, and acumen both legally and commercially.

Review and Feedback Process

For both of these proposed key change areas and the minor revisions, extensive review and feedback has been sought from stakeholders across Council.

Procurement Team Review:

The procurement team, along with external procurement specialist consultants 'SHOP Consulting' reviewed the policy document and were able to provide valuable contributions to the review process.

Contract Value Thresholds and Contract Variations:

The proposed changes were initiated by stakeholders' feedback and coincided with the overall review of the procurement function and transformation project. Workshops were conducted with key stakeholders to fully understand their issues and needs. These were used to inform the suggested changes which were then presented back to them and worked through again. The final versions of the changes have been fully reviewed, stress tested, and accepted by all.

Procurement Transformation Project:

A Steerco was formed for the Procurement Transformation Project, which includes representatives from a variety of areas from each Directorate within Council who work at different role levels and have differing levels of tenure, experience, and knowledge. The Steerco has been informed and consulted throughout the process and has provided valuable feedback and input into decision-making.

FINANCIAL ANALYSIS

There is not expected to be any additional cost impact associated with the changes being proposed to the procurement policy. The proposed changes will allow for refinement and streamlining of processes to deliver operational efficiencies through productivity improvements and provide a greater level of autonomy and accountability to leaders within Council.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan:

High Performing Organisation:

An innovative, responsive organisation that listens and delivers quality, value for money services to our community.

- Improving the capability, efficiency, and effectiveness of the way that all staff perform procurement will deliver much more to the community.

Quality Infrastructure and Liveable Place

Growing focus on long term financial and infrastructure planning and sustainability.

For Council to deliver the projects to support the long-term infrastructure and planning strategy, to determine the best value outcome, competitive sourcing activities need to be conducted.

To do this, an informed and aligned Procurement Policy supported by appropriate procedures and processes needs to be in place to adequately support the sourcing activities, ensure compliance and endeavour to provide the best outcome for the community.

Yarra Ranges Council related policies:

- Financial Delegations and Authorisations Policy 2023
- Corporate Code of Conduct
- Employee Code of Conduct
- Conflicts of Interest Policy
- Fraud Control Policy 2020
- Risk Management Policy

No regional, state, or national plans and policies are applicable to the recommendation in this report.

RELEVANT LAW

Section 108 (a) of the Local Government Act 2020.

SUSTAINABILITY IMPLICATIONS

Economic Implications

The proposed changes will not have any adverse economic effect but will allow greater autonomy of authorised officers to perform their procurement related duties in a timely and more efficient way, guided by the five principles in the Local Government Act 2020.

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

- Value for money
- fitness for purpose
- open and fair competition
- accountability
- risk management; and
- Probity and transparency.

Social Implications

There are no changes to the existing Social Implications and considerations included in the policy. The requirements and standards in the current policy remain in place.

Environmental Implications

There are no changes to the existing Environmental Implications and considerations included in the policy. The requirements and standards in the current policy remain in place.

COMMUNITY ENGAGEMENT

Not applicable.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Collaboration with the Eastern Regional Procurement Network (ERP) was sought in regard to the key proposed changes. Review of the policies and procedures of the seven Council's was conducted along with discussion on the topic in the monthly meetings.

The proposed changes bring Yarra Ranges Council more in line with what the other ERP Councils have in place.

RISK ASSESSMENT

The primary drivers of the two proposed key changes are: improve productivity and operational efficiencies in delivering goods, services and works to the community; and redistribute responsibility and accountability of the lower spend thresholds from the procurement team to senior Council officers under a self-service model.

By changing the contract procurement requirements for the lower spend thresholds as proposed, a guarantee of proving optimal value for money is more difficult. In addition, the questions that a procurement team member would normally apply, may not always be front of mind for non-procurement officers when evaluating and selecting a supplier.

Risk Mitigations and Success Dependencies

The following items are required to be in place to ensure success:

Framework and Process Documentation and Training:

Refreshed training and capability uplift program will be rolled out to Council officers to ensure that they understand their obligations, together with compliance support processes to set them up for success.

Procurement Function and Team Operating Model:

The policy changes proposed are a component of the overall transformation of the procurement team operating model from being a fully 'Centre-Led and Administrative' model to a 'Strategic Sourcing Centre-Led' model for the higher spend, higher risk areas of Council and a 'Self Service' function for the lower spend lower risk areas within Council.

The Self Service component will be supported by process automation and built-in compliance innovations within the Technology Uplift stream, and supported by changes to the team operating model.

The team operating model will be strengthened by the transition of existing resources into a newly developed Procurement Compliance Officer role. This role will be dedicated to performing monitoring, auditing and reporting of procurement activities.

Compliance Monitoring and Reporting:

A rigorous compliance review and reporting process has been implemented and any issues arising are being addressed monthly.

Training and Education:

Root cause analysis identifies the source of the issue, corrective actions are being conducted along with targeted training to ensure continuous improvement and the removal of the risk of recurrence.

Technology Uplift Project:

The technology uplift initiative will enable the self-service model and increase compliance by stepping officers through a guided buying solution that has the policy considerations built into the workflows via the following two technology streams:

- Jira Service Management – Introducing a new ticketing system and information repository that provides access to the Procurement Policy and Framework, 'How to' guides, process maps and procedures to provide a strong foundation and information library.
- Contract Management System (CMS) uplift project – The CMS 'Upgrade' project is not just an upgrade but almost a new product implementation consisting of reconfiguration, building workflows and templates for self-service, and built in compliance, improved approval processes, improved data capture for reporting and management, improved integration, and tech support plus introduces guided buying capability.

YRC Supplier Panels:

Currently we have a number of Supplier Panels in place for various service categories that are used across Council. These panels have been through extensive tendering processes resulting in a repository of prequalified suppliers with schedules of rates locked in.

Using panels reduces the risk of overspend and ensures value for money is upheld. The use of panels is covered in the existing procurement policy and are available and in use now for one or more quotes up to the tendering threshold of \$250,000 (GST exclusive).

A review, and refreshing, of existing Supplier Panels is underway and the implementation of additional panels where appropriate is being explored. YRC Panels will be built into the automated workflow processes in the uplifted Contract Management System.

Panels provided by Government approved Procurement Aggregators:

The use of panels and contracts entered into by organisations such as MAV, Procurement Australia and State Purchasing Agreements following tender processes, are currently used extensively within Council, and will continue to be used. The option to use and seek quotes from Government approved panels will be built into the automated workflow processes in the uplifted Contract Management System.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. YR Procurement Policy – Revised Draft (Final)