

# Procurement Policy

Policy Number:	2009/08	Directorate:	City Strategy and Integrity
Approval by:	CEO	Responsible Officer:	Manager Strategic Procurement and Property
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## 1. Purpose

The purpose of this policy is to:

- ensure consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- ensure ethical behaviour in public sector procurement;
- demonstrate the application of elements of best practice in procurement; and
- minimise risk when procuring goods and services.

## 2. Context

Section 108 and 109 of the Local Government Act 2020 (the Act) requires that Council prepare and adopt a Procurement Policy (Policy), which specifies the principles, processes and procedures in respect of the purchase of goods, services and carrying out of works. Council must consider collaboration activity by the Council; and is to review its procurement policy at least once during each 4-year term of the Council.

Council has developed this Policy to ensure compliance with the Act and to establish a framework for best practice procurement that is consistent with the Victorian Local Government Best Practice Procurement Guidelines published by Local Government Victoria in 2013.

This Policy is made publicly accessible through Council's website to ensure that businesses and individuals dealing with or wanting to deal with Council have a clear understanding of the procurement policy and how to do business with Council.

The Policy includes a number of processes that detail how procurement is conducted and ensures transparency, probity, fairness and legal compliance in the procurement process. Further detailed guidance, forms and templates for all processes can be found in the Strategic Procurement Framework.

Council recognises that:

- Developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and building and construction, will enhance achievement of Council objectives for:

- sustainable and socially responsible procurement;
  - bottom-line cost savings, supporting local economies;
  - achieving innovation; and
  - better outcomes for communities.
- The elements of best practice applicable to Council's procurement processes incorporate:
    - broad principles covering ethics, integrity, value for money, responsibilities and accountabilities;
    - guidelines giving effect to those principles;
    - a system of delegations (i.e. the authorisation of Council staff to approve and undertake a range of functions in the procurement process);
    - procurement processes, with appropriate procedures covering minor, simple procurement to high value, more complex procurement; and
    - a professional approach that includes a commitment to training/induction of staff.
  - Requires that its procurement and contract management activities:
    - support the Council's strategies, aims and objectives including, but not limited to those related to:
      - valuing our natural and built environment;
      - having a strong regional economy;
      - local employment and learning opportunities; and
      - the public having confidence in Council's decision making.
    - span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract;
    - achieve and demonstrate value for money and quality in the acquisition of goods and services and building and construction works;
    - are conducted, and are seen to be conducted, in an impartial, fair and ethical manner;
    - seek continual improvement including the embrace of innovative and technological initiatives to reduce activity cost; and
    - recognise business opportunities and support the businesses in the local community.

### 3. Scope

This Policy applies to all procurement and contracting activities for and on behalf of Council and is binding upon Councillors, Council staff, including temporary employees. Contractors and consultants while engaged by Council are also bound by this policy.

### 4. References

#### 4.1 Community Plan 2021-2031 and Council Plan 2021-2025

- Strategy 5.3 - Ensure our processes are transparent and decisions are accountable

#### 4.2 Climate Response Plan 2021-2031

#### 4.3 Relevant Legislation

- Local Government Act 2020
- Competition and Consumer Act 2010
- Goods Act 1958

#### 4.4 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights.

#### 4.5 Related Council Policies

- Councillor Code of Conduct
- Corporate Purchasing Card Policy 2004/18

- Fraud Policy 2002/10
- Gifts and Hospitality (Staff and Official Representatives of Council) Policy 2004/03
- Protected Disclosure Policy 2013/04
- Staff Travel Policy 2009
- Untied Funding Allocation Policy 2005/13
- Staff Code of Conduct 2012/05
- Disciplinary Policy and Procedure
- Records Management Policy 2012/01

#### 4.6 Related Council Procedures

- Employment of Labour Hire Services Procedures
- Protected Disclosure Procedures
- Disciplinary Procedures
- Capital Works Program Authorisation Process

#### 4.7 Other Documents

- Strategic Procurement Framework
- Authorisation Register
- Delegations Register
- Victorian Local Government Best Practice Procurement Guidelines
- Australian Standards and the AS4000 Series – General Conditions of Contract

## 5. Definitions

Act	Local Government Act 2020
Collaborative Procurement Arrangement	A Tender or Contract with multiple participants intended to realise efficiencies or economy of scale in accordance with the Value for Money principles.
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc.
Consultant	Individuals or groups of individuals with specialised knowledge and/or skill. They are not part of an organisation's staff management but rather are contracted for a fee to provide specific services to an organisation and are not under direct line management authority.
Contract Management	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 value for money.
Council Staff	Includes full-time, part-time, and temporary employees.
Contractor	The common law defines an independent contractor as a person who works under a commercial contract or a contract for services. The independent contractor can operate as an individual or through a partnership, company or trust. The contractor is engaged to perform a specific role or task that is part of normal Council Operations and is under the supervision of Council Management in delivery of services.

Probity	A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with legislation and Council's policies 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 equally.
Probity Advisor	A suitably qualified or experienced person or organisation that provides advice on how to manage an issue or issues that include probity considerations. A probity advisor may be an internal or external resource depending on the level of skill and knowledge required.
Probity Auditor	A suitably qualified or experienced person or organisation that checks and confirms that all processes and issues have been managed in a transparent and fair manner, following the applicable processes. A probity auditor may be an internal or external resource depending on the level of skill and knowledge required.
Procurement Plan	Is the required written plan with designated detail to enable appropriate consideration and approval for a proposed procurement activity. A Template for the Procurement Plan is provided for this purpose within the Strategic Procurement Framework.
Procurement Report	Is the required written report with designated detail to enable appropriate consideration and approval of the outcome(s) of the previously approved procurement activity. A Template for the Procurement Report is provided for this purpose within the Strategic Procurement Framework.
Strategic Procurement	Strategic Procurement unit that co-ordinates Council's strategic procurement activities, organises major supply agreements for common use goods and acts as an advisory body for procurement related matters.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Procurement	Procurement is the whole process of acquisition of external goods, services, building and construction. This activity considers 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.
Procurement Process	The process of inviting parties to submit a bid by tender or quotation using either invitation or public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Value for Money	Value for Money in procurement is about selecting the supply of goods, services and building and construction taking into account both cost and non- cost factors including: <ul style="list-style-type: none"> <li>• contribution to the advancement of Council's priorities;</li> <li>• non-cost factors such as fitness for purpose, quality, service and support; and</li> <li>• cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or building and construction.</li> </ul>
Whole of Life	The anticipated total cost over the entire life of a contract which includes all extension options. This must consider environmental and social factors, transition in/out, operational, repair and potential disposal costs and applicable taxes.

## 6. Council Policy

### 6.1 Ethics, Integrity and Probity

#### 6.1.1 Requirement

Council's procurement processes will be conducted with integrity and in a manner able to withstand the closest possible scrutiny.

#### 6.1.2 Conduct of Councillors and Council Staff

##### 6.1.2.1 General

Councillors and Council staff will at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:

- treat potential and existing suppliers with equality and fairness;
- use consistent and transparent processes;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner;
- provide all suppliers and prospective suppliers with the same information and equal opportunity;
- be able to account for all decisions and provide feedback on them so that all decisions are understood and can be subsequently justified;
- ensure their actions embody the principles of sound financial and risk management; and
- comply with all legal and policy requirements.

Council staff that are responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising. Consultants and contractors, while engaged by Council in the process of procurement are required to declare they have read and understood the Policy and agree to adhere to the requirements of the Policy.

##### 6.1.2.2 Members of Professional Bodies

Councillors and Council staff belonging to professional organisations will, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body.

#### 6.1.3 Procurement Processes

All procurement processes will be conducted in accordance with the requirements of this policy and any associated procedures, Council's staff code of conduct, relevant legislation, relevant Australian Standards and the Local Government Act. Any breach of this policy by Council staff may be dealt with under Council's Disciplinary Policy. Any breach of the policy by Councillors may be dealt with under the Councillor Code of Conduct.

#### 6.1.4 Conflict of Interest

Councillors and Council staff will at all times avoid situations in which private interests conflict, or might reasonably be seen to conflict, or have the potential to conflict, with their Council duties. Councillors,

Council staff and consultants or contractors acting on behalf of Council will 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, the member of Council staff, consultant or contractor involved being alert to and promptly declaring an actual or potential conflict of interest to Council. The conflict of interest provisions for Councillors and Council staff are clearly outlined in the Act.

Council staff need to be mindful of their obligation under the Conflict of Interest provisions in the Act when they are exercising a delegated power of Council. If Council staff have a conflict of interest in a matter they need to declare it and remove themselves from the process. Council staff need to be aware that there are significant penalties that apply for any breach of the Act.

All persons engaged in the development or evaluation of quotations or tenders must adhere to this policy and complete and lodge a Conflict of Interest and Confidentiality declaration.

#### **6.1.5 Fair and Honest Dealing**

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

Impartiality must be maintained throughout the procurement process so 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 be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

#### **6.1.6 Accountability and Transparency**

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

Therefore all procurement processes conducted will be in accordance with this Policy in addition to all other relevant legislation and Council policies and procedures.

Additionally:

- all Council staff must keep a record of all procurement decisions made over the lifecycle of all goods, services and building and construction services purchased by Council;
- all procurement processes are to provide for an audit trail for monitoring and reporting purposes; and
- Strategic Procurement will review spend activity over each financial year period to ensure compliance with the Act and identify opportunities to achieve better procurement outcomes.

#### **6.1.7 Gifts and Hospitality**

No Councillor, member of Council staff, contractor or consultant acting on behalf of Council will, either directly or indirectly solicit gifts or hospitality from any member of the public involved with any matter that is connected with the duties of the Council staff, or in which Council is interested.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors and consultants 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, favourable rates or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the Chief Executive Officer. This section must be read in conjunction with Council's Gift and Hospitality Policy.

#### **6.1.8 Disclosure of Information**

Commercial in Confidence information received by Council must not be disclosed and is to be stored in Council's electronic document management system.

Councillors and Council staff are to protect, by refusing to release or discuss the following:

- information disclosed by organisations in tenders, quotation or during tender negotiations;
- all information that is Commercial in Confidence information; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre- contract negotiations.

Unless legally obliged to provide information under the Freedom of Information legislation, 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.

At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised other than authorised pre-contract negotiations.

## **6.2 Governance**

### **6.2.1 Structure**

Council will:

- maintain a procurement structure including delegations and authorisations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of goods, services and building and construction purchased by Council;
- ensure that Council's procurement structure:
  - is flexible enough to purchase in a timely manner the diverse range of material, goods, building and construction and services required by Council;
  - ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
  - encourages competition; and
  - ensures that policies that outline and provide guidance in relation to procurement policies and practices are communicated and implemented.

### **6.2.2 Standards**

Council's procurement processes will be carried out to the professional standards required by best practice and in compliance with:

- The Local Government Act;
- Council's policies and procedures including but not limited to this Policy;
- Corporate Purchasing Card Policy;
- Strategic Procurement Framework;
- Fraud Policy and Procedure;
- Delegation Register;
- OH&S Policies and Procedures and relevant staff policies;
- Council's Code of Conduct for staff and Councillors Code of Conduct;
- Local Government Procurement Best Practice Guidelines; and
- Other relevant legislative requirements.

### **6.2.3 Methods**

Council's standard methods for purchasing goods, services and building and construction will be by one or more of the following methods

- petty cash;
- corporate purchasing card;
- purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;
- payment on invoice where a central billing arrangement has been implemented;
- under contract following a request for quotation or request for tender process; or
- using Collaborative Procurement Arrangements with other Councils, or Municipal Association of Victoria (MAV) Procurement, Victorian Government, Procurement Australasia or other bodies.

unless performed under other arrangements authorised by Council or the Chief Executive Officer on a needs basis as required by abnormal circumstances such as emergencies.

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 an Expression of Interest stage followed by a tender process involving the organisations selected from the expression of interest stage.

### **6.2.4 Responsible Financial Management**

The principle of responsible financial management will be applied to all procurement processes.

Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, will be established prior to the commencement of any procurement action for the supply of goods, services or building and construction.

Council funds must be used efficiently and effectively to procure goods, services and building and construction 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.



Where the cost of provision will exceed the approved budget, an audit trail outlining approval by the relevant Director or Chief Executive Officer is required.

In relation to variations to any procurement contracts refer to section 6.3.2.4.

### 6.2.5 Council Staff Responsibilities

Council staff must be aware of their role in ensuring that the principle of responsible financial management is maintained in their own procurement processes. For example:

- Council staff must not authorise the expenditure of funds in excess of their financial delegations;
- Council staff must not authorise or write multiple purchase orders to avoid the authorisation process requirements included in the financial delegations;
- Council staff must not approve expenditure that relates to them personally. Expenditure of this nature must be referred to the next higher level of authority for approval;
- Council staff must ensure that any purchase orders are generated and approved at the point of commitment to purchase goods, services or building and construction. Only after a purchase order is approved, can the goods be ordered and received; and
- Expenditure must be recorded in a timely manner i.e. once the services or building and construction have been completed, or the goods have been received, the appropriate Council staff must ensure that the invoice is processed in a timely manner against the relevant purchase order in Council's Finance system.

## 6.3 Procurement Thresholds

### 6.3.1 Requirement

The Executive Management Team will as part of the annual review of this Policy decide and publish clear guidelines for minimum spend thresholds. These will be decided by analysing the historical size and complexity of the procurement process and of proposed procurement processes.

### 6.3.2 Minimum Spend Thresholds

The following table indicates the minimum process Council staff and contractors or consultants acting on behalf of Council must follow when making a purchase or entering into a contract.

Where it is felt that a higher threshold process would deliver a better procurement outcome, Council staff can elect to use a higher threshold process. If a purchase may be seen as high risk or where the goods or services are unknown or uncommon, it is recommended that a higher threshold process is used to ensure a more rigorous process is followed.

Where there is any likelihood the expenditure will exceed the threshold, whether due to variations, unexpected volume or any other reason, then the appropriate higher threshold process must be undertaken.

GOODS & SERVICES		
General		
Value of Purchase	Procurement Compliance	Requirement
\$0 - \$10,000 (incl. GST)	Simple Quotation Process	Obtain a minimum 1 quote
\$10,001 - \$50,000	Simple Written Quotation	Obtain a minimum 3 written

<b>(incl. GST)</b>	Process	quotes
\$50,001 - \$150,000 <b>(incl. GST)</b>	Detailed Written Quotation Process	Obtain a minimum 3 written detailed quotes
\$150,001+ <b>(incl. GST)</b>	Tender Process	Public Tender

<b>BUILDING &amp; CONSTRUCTION WORKS</b>		
<b>General</b>		
<b>Value of Purchase</b>	<b>Procurement Compliance</b>	<b>Requirement</b>
\$0 - \$10,000 <b>(incl. GST)</b>	Simple Quotation Process	Obtain a minimum 1 quote
\$10,001 - \$50,000 <b>(incl. GST)</b>	Simple Written Quotation Process	Obtain a minimum 3 written quotes
\$50,001 - \$200,000 <b>(incl. GST)</b>	Detailed Written Quotation Process	Obtain a minimum 3 written detailed quotes
\$200,001+ <b>(incl. GST)</b>	Tender Process	Public Tender

### 6.3.2.1 Quotations

#### General Suppliers

Purchase of goods, services having a total of \$150,000 (incl. GST) or less and building and construction having a total valuation of \$200,000 (incl. GST) or less may be undertaken using the procurement by quotation method as described below:

#### 6.3.2.1.1 Simple quotation process - all purchases with a value to \$10,000 (incl. GST)

A simple quotation process is designed to seek an offer from a supplier in a quick and efficient manner whilst protecting commercially sensitive information. It can be verbal, either on the phone or face to face; or it can be written.

Quotes must be requested from appropriate suppliers who can supply the goods/services within the required timelines and satisfy minimum terms & conditions required by Council from time to time covering matters such as insurances, payment terms, certifications or professional registrations.

Quotes are to be recorded in Council's Finance System. Advertising is not required.

#### 6.3.2.1.2 Simple written quotation process - all purchases with a value \$10,001 to \$50,000 (incl. GST)

A simple written quotation process requires you to obtain three written quotes. Verbal quotes will not satisfy this requirement. The quote request may involve sending an already existing brief and obtaining a quote to perform all or part of the brief.

The request and response can be submitted by hard copy or email, depending upon the complexity. It should seek to clarify aspects of the offer of importance such as price, dates, insurance, terms (normally purchase order terms) and resources.

A written recommendation of the selected supplier(s) must be approved by the relevant delegate and saved to Council's electronic document management system.

#### **6.3.2.1.3 Detailed written quotation process**

**Purchases with a value \$50,001 to \$150,000 (incl. GST) (goods or services)**

**AND**

**Purchases with a value \$50,001 to \$200,000 (incl. GST) (buildings and works)**

A detailed written quotation process follows the steps and the templates provided in the Strategic Procurement Framework and follows a formal process of offer and acceptance. Three (3) written quotes are required to be obtained. A Procurement Plan, including background, baseline, timelines and engagement strategy must be approved prior to seeking quotations.

Requests for quotations may be released and accepted by the e-tendering portal. The written evaluation and recommendation outlined in a Procurement Report must include details of all invited suppliers, their quotations, and must be approved and signed off by the appropriate financial delegate as stated in item 6.4.2 Delegations.

All documents relating to the procurement process must be maintained in Council's electronic document management system.

#### **6.3.2.2 Tenders**

Purchase of all goods and services for which the estimated expenditure exceeds \$150,000 (including GST), and building and construction works for which the estimated expenditure exceeds \$200,000 (including GST), must be undertaken by public tender.

Requests for Tender may be released by the e-tendering portal. The written evaluation and recommendation outlined in a Procurement Report must include details of all tenders received and must be approved and signed off by the Chief Executive Officer up to the Chief Executive Officers delegation, and approved by Council above the Chief Executive Officers delegation.

Councillors will be advised of all planned tender processes for goods and services estimated to exceed \$150,000 expenditure and building and construction works estimated to exceed \$200,000 expenditure via Council's weekly CEO bulletin. Any Councillor may request a tender process to be approved by Council, by submitting a request in writing to the Manager of Governance or Director City Strategy and Integrity prior to the Tender Close date.

All documents relating to the procurement process must be maintained in Council's electronic document management system.

#### **6.3.2.3 Exemptions**

The relevant Director or Chief Executive Officer may provide an exemption to this policy and related procedures provided best value and legislative compliance can be demonstrated, within their respective financial delegation limit.

An exemption must be applied for prior to raising a Purchase Order, using the appropriate form. The Exemption must be approved in writing by a Director or Chief Executive Officer as well as Procurement.

A breach of the policy and procedures may result in disciplinary action.

Any material breach will be reported to the EMT, Council, Audit and Risk Committee and public (via the CEO, the annual report and website).

The engagement of Traditional Owners- where the primary purpose of the procurement activity is to gather information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the Aboriginal Heritage Act 2006 (Vic)- is exempt from tender, quotation and expression of interest requirements.

#### **6.3.2.4 Variations**

To avoid unnecessary and unplanned variations, Council staff should undertake careful procurement planning to clearly define a scope of works to minimise the potential requirement for contract variations.

Approval for a variation to contract should only occur in exceptional circumstances and must be obtained when:

- a variation increases the contract value beyond the approving Council staff member's authorised approval level; and/or
- a variation increases the contract value beyond the allowable procurement threshold level used to originally purchase the goods, services or building and construction. An exemption to the procurement process must be obtained from a Director or CEO.

Cumulative contract variations which result in variations to price exceeding ten percent (10%) in total should be considered as a new procurement process.

A variation in a Capital Works project should first be processed in accordance with the Capital Works Program Variation Authorisation process.

#### **6.3.2.5 Contracted Suppliers**

Where Council has undertaken a tender process to obtain contracted suppliers or when using an approved purchasing scheme supplier, then the following process is applicable.

##### **Where a Schedule of Rates Exists**

Decide who will be used based upon the calculated schedule of rates, quality, timeliness, and availability as it impacts the project or engagement. As this has previously been market tested there is no requirement to conduct another procurement event. Record the reasons for selecting the supplier in Council's finance system.

The engagement of the selected supplier can be approved by Council staff with the appropriate delegation. Approval will be gained by raising a purchase order in Council's finance system.

##### **Where a Schedule of Rates Does Not Exist**

Where a Schedule of Rates is not available, conduct a written quotation process defined in section 6.3.2.1 with those suppliers who are appropriate for the task. Those selected to quote may be based upon the qualitative assessment of the original quote/tender or availability.

Assessment is to be made based upon pre-defined evaluation criteria. This assessment is to be recorded against the Head Contract within Council's electronic document management system.

The engagement of the selected supplier can be approved by Council staff with the appropriate delegation. Approval will be gained by raising a purchase order in Council's finance system.

#### **6.3.2.6 Consultancy Engagement**

Council recognises the management of a person or organisation to perform a consultancy function involves Council undertaking additional procurement reporting. It is important to refer to the definition of a consultancy as compared to a contractor as both parties could be providing a service.

Council will follow the strategic procurement framework for the engagement of consultancy services.

In addition, prior to making a decision on whether to engage a person or organisation to perform a consultancy, Council will consider and document as part of a Procurement Plan:

- the reasons why the work required to be performed by the consultancy is necessary and is of value to Council;
- whether the skills required for the consultancy project exist internally among members of Council staff; and
- if the skills required do exist internally, whether the relevant Council staff member/s has capacity to undertake the consultancy project and, if not, whether the consultancy project can be delayed until a time when the Council staff member/s will have capacity.

Managers are responsible for the approval of consultancy engagements greater than \$10,000 and within the upper limit designated in the Approval Level table in Section 6.4.2.1.

Despite any other delegation to the contrary, where it is considered that the skills required for a consultancy project do exist internally, the decision to engage a consultant must be approved by the Chief Executive Officer or a Director.

#### **6.3.2.7 Purchase Orders/Requisitions**

A Purchase Order should be used as the method of payment for all purchases relating to a registered contract, or consultancy engagements, and for other purchases greater than \$2000 other than those exempted below. If using a Purchase Order for the purchase of goods and services, the Purchase Order must be raised and approved prior to the time the goods or services are ordered. All purchases must be raised on Council's finance system to ensure committal accounting practices are achieved.

GST – When Council staff are preparing a purchase order, unit price amounts must be exclusive of GST. In an emergency situation, members of the Executive Management Team and/or Council's Municipal Emergency Response Officer (MERO) or their nominee, may take reasonable action and direct for goods/services to be obtained outside of the requirements of this policy, however a summary report with financial details must be submitted to the relevant Director as soon as practical after the emergency situation. This should be no more than five working days after the decision was taken.

Purchase orders are not required for:

- Utilities – water, telephone, mobiles, gas, electricity, sewerage charges and Telstra Dial before you dig
- Petty cash reimbursements
- Couriers
- Australia Post
- Medical accounts
- Advertising
- Ausdoc
- Legal fees
- Memberships
- Subscriptions
- Seminars and conferences
- Travel-related expenses
- Building Regulations Lodgement Fees
- Salaries, wages, other direct payroll payments and taxation
- Goods/services purchased on a corporate purchasing card (in accordance with Council's Corporate Purchasing Card Policy)
- Temporary Labour Hire engaged through Comensura

## 6.4 Delegation of Authority

### 6.4.1 Requirement

Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement processes 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 in 6.4.2 relating to the expenditure of funds for the purchase of goods, services and building and construction, the acceptance of quotes and tenders and for contract management activities.

### 6.4.2 Delegations

#### 6.4.2.1 Council Staff

Council maintains a documented scheme of procurement delegations, identifying Council staff authorised to make such procurement commitments in respect of goods, services, building and construction on behalf of Council. A purchase order must be approved by a Council staff member with the appropriate approval limit as listed in the Approval Levels table below. There must also be sufficient funds within the budget available to cover the purchase order.

The Chief Executive Officer, Directors and Managers will not have access to raise purchase orders but will have the authority to approve purchase orders in accordance with the limits set out below:

#### Approval Levels (Inc GST)

COUNCIL POSITION	PURCHASING APPROVAL LIMITS
Council	No limit

<b>Chief Executive Officer</b>	\$1,000,000 (inc. GST) for a single transaction; or In the case of a multi-year contract, \$500,000 (inc. GST) per annum for each year of the contract, up to 5 consecutive years.
<b>All Directors - Goods &amp; Services</b>	Up to \$150,000
<b>All Directors – Building and Construction works</b>	Up to \$200,000
<b>All Managers</b>	Up to \$50,000
<b>Coordinators</b>	Up to \$10,000
<b>Nominated Officers</b>	Up to \$5,000
<b>Requisitioners</b>	\$0

The Chief Executive Officer may approve additional delegation to individual Council staff where operational circumstances require this authority. Refer Appendix A – Schedule of Additional Authorisations Approved by the Chief Executive Officer.

#### **6.4.2.2 Delegations Reserved for the Council**

Commitments and purchases which exceed the Chief Executive Officer's delegation must be approved by Council. Councillors will be advised of all planned tender processes for goods and services estimated to exceed \$150,000 expenditure and building and construction works estimated to exceed \$200,000 expenditure via Council's weekly CEO bulletin. Any Councillor may request a tender process to be approved by Council, by submitting a request in writing to the Manager Governance or Director City Strategy and Integrity prior to the Tender Close date.

### **6.5 Internal Controls**

Council maintains a framework of internal controls over procurement processes including regular internal audit review that ensures:

- more than one person is involved in and responsible for a transaction above \$2,000 end to end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement processes;
- appropriate approvals are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

### **6.6 Commercial Information**

Procurement processes 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 Records Management Policy.

### **6.7 Risk Management**

#### **6.7.1 General**

Risk Management is to be appropriately applied at all stages of procurement processes which will be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and building and construction.

The adoption and implementation of this Policy will provide Council with a sound foundation for risk management in the procurement process. Council staff need to consider the inclusion of a formal, documented Risk Assessment as part of the recorded documentation if in their judgement it is required.

#### **6.7.2 Supply by Contract**

The provision of goods, services and building and construction by contract potentially exposes the Council to risk.

Council will minimise its risk exposure by measures such as:

- conduct planning and early stakeholder consultation to determine the key deliverables and risk factors;
- incorporating safety and risk as mandatory evaluation criteria for purchases over \$50,000;
- standardising contracts to include current, relevant clauses;
- requiring security deposits where appropriate;
- referring specifications to relevant experts for review where considered appropriate;
- requiring contractual agreement before allowing the commencement of work;
- systemically reviewing all relevant policies and procedures;
- use of or reference to relevant Australian Standards (or equivalent) where appropriate; and
- effectively managing the contract including monitoring and enforcing performance.

#### **6.7.3 Tender Documentation**

Council will ensure that tender documentation is clear and concise, and clearly defines the Scope of Works, Performance Requirements, OH&S Requirements, Insurance/Indemnity obligations and Evaluation Criteria. The requirements described below apply particularly for those tenders conducted above the public tender threshold.

In addition, the following must be included:

- Conditions of Tender;
- Form of agreement;
- draft General Conditions of Contract (including Annexure(s)); and
- Specifications (including Scope of Works).

#### **6.7.4 Evaluation Requirement for Tenders and Quotations**

The aim of the evaluation process is to select a tender and or quotation that offers the 'Best Value' to Council while ensuring that all respondents are treated in a fair, equitable and impartial manner.

Council will ensure that the evaluation of tenders and quotations is undertaken on a systematic basis using evaluation criteria identified in the tender documentation. Council will consider all tenders and quotations as part of the bid evaluation process.

Evaluation criteria will be nominated in advance in the Conditions of Tender or quotation documents and may include criteria from the following:

- price;
- relevant experience/track record/operational performance;
- quality (may include quality assurance);
- safety and risk management system;
- environmental management compliance;



- appropriate resources;
- financial capacity;
- management skills;
- methodology and procedures;
- technical/technological expertise;
- asset management implications; and
- nominated subcontractors.

Mandatory evaluation criteria (that is, criteria which Respondents must satisfy) may be stipulated in the conditions of tender (mandatory factors are the 'pass / fail' criteria which the respondents either have or do not have). Where a tender response fails to satisfy the mandatory criteria, Council will not evaluate that tender response any further.

#### **6.7.4.1 Local, Social and Environmental Considerations**

Council is committed to environmental, local and social economic sustainability and will apply a mandatory minimum evaluation weighting of 10% collectively to this criterion.

Council officers must consider how to apply the weighting to their purchase and are encouraged to apply more than 10% across as many of these considerations as possible.

Where appropriate, Council will target organisations to participate in selective quotation processes e.g. ensuring local, social, indigenous or green enterprises.

The 10% weighting will give preference to:

- purchase or use of recycled and environmentally preferable products;
- goods with relevant ecolabels and certification.
- purchase of goods, machinery or material manufactured in Australia and New Zealand;
- purchases from social enterprises;
- local suppliers.

For all purchases less than \$50,000 (inc GST) Council prefers use of local suppliers in the first instance.

#### **6.7.5 Assessment of Financial Capacity**

Where appropriate, Council will conduct an assessment of the risk associated with the failure of a contractor to meet their contractual obligation due to limited financial capacity. Potential risk should be a consideration at the time of the development of the Procurement Plan.

In assessing the potential risk, Council will consider factors including, but not limited to:

- the impact of a failure of a contractor to meet their contractual obligations;
- the overall value of the subject contract and the value of individual projects within a larger contract;
- the term of a contract;
- the availability of alternative suppliers; and
- the provision of risk mitigation measures such as deposits, bank guarantees and insurances.

If the risk assessment, and political profile of the tender are deemed to be of a level where the consequence of failure or poor service delivery is potentially high, an independent financial assessment should be obtained through Strategic Procurement.

#### **6.7.6 Insurance and Indemnity Requirements**

Council requires a Public Liability insurance cover of \$20 million. However, where liability is determined to be potentially higher or lower than this amount, cover may be varied accordingly.

Dependent on the type of Contract, \$2 million Professional Indemnity Cover is required. Evidence of cover in the form of a Certificate of Currency at a minimum will be obtained. Council will also ensure any other appropriate insurance, i.e. Product Liability, Insurance of Works, Motor Vehicle or Fiduciary or Work Cover details are obtained dependent on the type of contract.

#### **6.7.7 Evaluation Panel**

An Evaluation Panel will be established where scale, complexity and contract value demands. The Evaluation Panel should comprise of at least three members. For contracts valued greater than \$150,000 for goods and services or \$200,000 for building and construction, the Evaluation Panel will include a member of Council staff from a department not responsible for the engagement and management of the contractor. For tenders deemed to be of material significance or deemed to be of high risk, a Probity Advisor can be appointed by Strategic Procurement.

All members of the evaluation panel must complete a 'Conflict of Interest and Confidentiality Statement'. The Chair of the Tender Evaluation Panel is responsible for all Tender Documentation being compliant.

#### **6.7.8 Probity Audit**

The Chief Executive Officer will, at their sole discretion, nominate any tender or other procurement process to be the subject of a Probity Audit by suitably qualified independent auditors.

Where a requirement for Probity Audit is nominated in the Procurement Plan before the commencement of the procurement process, the Probity Auditors will be engaged prior to the commencement of the process. Where a requirement for Probity Audit is nominated during the procurement process, the process will be put on hold and only recommenced following the engagement of the Probity Auditors.

The Probity Auditors will provide a full report to the Chief Executive Officer, or a nominated delegated officer, at the conclusion of the Audit.

#### **6.7.9 Award of Contract**

The decision to award a contract will be made either by a formal resolution of Council or its delegated officer.

In accordance with Council's Delegated Authority, all contracts for a single transaction to the GST inclusive value of greater than \$1,000,000 or in the case of a multiyear contract, greater than \$500,000 per annum for each year of the contract for a maximum of 5 years, must be awarded by a formal resolution of Council. The Chief Executive Officer or their delegate, as per the Delegation of Authority Register, can award contracts of lesser value.

Council can negotiate with a tenderer or bidder to achieve an acceptable outcome reflective of the scope of works advertised.

Council will not trade the price of one tender or bid against that of another tenderer or bidder and will exhaust negotiations with one tenderer or bidder before beginning negotiations with another.

Council will award the contract on the basis of assessment against the stated evaluation criteria.

## **6.8 Contract Terms**

All contractual relationships must be documented in writing based on standard terms and conditions appropriate to the goods or services being provided.

Where standard terms and conditions are not possible, approval must be obtained from the appropriate member of Council staff listed in Council Delegations. A request for such an approval should be supported with procurement and legal advice.

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 Council Delegations of Authority Register.

## **6.9 Endorsement**

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to Director level or above.

## **6.10 Dispute Resolution**

All Council contracts will incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes becoming unmanageable and leading to legal action.

## **6.11 Contract Management**

The purpose of contract management is to ensure that Council, and where applicable its clients, receive the goods, services or building and construction provided to the required standards of quality and quantity as intended by the contract by:

- establishing a system monitoring and achieving the responsibilities and obligations of both parties' under the contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions; and
- adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

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 building and construction to ensure Council receives Value for Money. Contracts above \$50,000 in value are to be maintained and administered in Council's contract management system. A contract number must be obtained and included in the Procurement Plan and Procurement Report.

Once an agreement has been executed, a copy of the signed documentation must be recorded and filed in Council's electronic document management system and other systems as required.

## **6.12 Integration with Council Vision**

The Procurement 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. Procurement delivers best value outcomes to its Community through the purchase of goods, services and works by applying best practice principals.

Council's procurement processes will support the organisation to achieve its Community Vision 'where we connect with our people and our environment, ensuring they are safe, supported and have every opportunity to thrive'. Procurement has a role in delivering the five key directions outlined in the Community Plan:

1. Opportunity and Innovation
2. Neighborhoods, housing and infrastructure
3. Natural environment and sustainability
4. Connection, resilience and wellbeing
5. Civic engagement and integrity

Procurement will contribute to the outcomes of these five key directions through upholding procurement processes that foster the values of accountability, sustainability and transparency.

## **6.13 Achieving Value for Money**

### **6.13.1 Requirement**

Council's procurement activities will be carried out on the basis of obtaining 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 value for money. Value for money in Council procurement is about selecting the supply of goods, services and building and construction taking into account both cost and non-cost factors including:

- contribution to the advancement of Council's priorities and objectives;
- non-cost factors such as fitness for purpose, quality, environmental, social and local economic impacts, 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 building and construction works.

### **6.13.2 Approach**

The Value for Money approach will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle;
- effective use of competition;
- using aggregated contracts and service-oriented architecture where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient tender processes including appropriate use of e-solutions, where appropriate;
- 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 building and construction being acquired.

### **6.13.3 Role of Specifications**

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

- is outcome focused;
- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability; and
- eliminates unnecessarily stringent requirements.

### **6.14 Standard Processes**

Council will provide effective and efficient commercial arrangements for:

- the acquisition of goods and services; and
- arrangements covering standard products and provision of standard services across Council to enable Council staff to source requirements in an efficient manner.

This will be achieved by establishing:

- pricing where relevant;
- processes, procedures and techniques;
- tools and business systems (e.g. implementing appropriate e-tendering, e-evaluation; e-catalogue or e-sourcing arrangements);
- reporting requirements; and
- application of standard contract terms and conditions.

### **6.15 Collaborative Procurement Approach**

In accordance with Section 108 (c) of *the Act*, the Council will first give consideration to collaboration with other Councils and public bodies or utilise Collaborative Procurement Arrangements when procuring goods, services and works to achieve such things as economies of scale, local, social and environmental outcomes and standardising the market approach.

### **6.16 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.

## **7. Administrative Updates**

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

## Appendix A

### Schedule of Additional Authorisations Approved by the Chief Executive Officer

Employee Position Title	Authorisation Level (excl. GST)
Coordinator – Construction Group	\$50,000
Coordinator – Urban Forest and City Presentation	\$50,000
Coordinator – Coordinator Sportsfields Reserves and Capital Works	\$50,000
Coordinator – Works Services	\$50,000
Coordinator – Facilities	\$50,000
Coordinator – Fleet Management	\$50,000
Coordinator – Business Support Connected Communities	\$50,000
Coordinator – Project Delivery	\$50,000
Senior Team Leaders – Family & Children Services	\$10,000
Team Leader – Project Delivery	\$10,000
Project Officer – Facilities	\$10,000
Supervisor – Works Services	\$10,000
Supervisor – Parks Services	\$10,000
Executive Engineer - Contracts and Operation Improvements	\$10,000
Project Officers – Operations	\$10,000
Team Leaders – Operations	\$5,000
Administration Officers – Operations	\$5,000
Administration Officer – Facilities	\$5,000