

# Procurement Policy

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## 1 Purpose

This Policy ensures that the procurement activity of Knox City Council is conducted in an honest, competitive, fair and transparent manner, delivering best value for money outcomes with consideration of Council's social, environmental, economic and governance objectives; the quadruple bottom line.

## 2 Scope

This Policy applies to all procurement and contracting activities for and on behalf of Council and is binding upon Councillors and Council staff, including temporary employees.

All values in this Policy are to be inclusive of GST.

ICT Workstation purchases (including PCs, laptops and related equipment, but not furniture) must be made through the IT Service Desk including copier, printer and scanner purchases, unless an exemption has been provided by the Chief Information Officer (CIO). All information technology software, hardware or services purchased for Council must comply with the ICT processes and be endorsed by the CIO prior to purchase.

This policy does not apply to:

- salaries, wages, direct payroll payments, superannuation and taxation;
- petty cash reimbursements;
- corporate card use;
- Travel related goods or services, (purchases must be made in accordance with the Staff Travel Policy)
- Novated contracts, where the initial contract was entered into in compliance with this policy and due diligence has been undertaken in respect to the new party;
- Leave balance transfers between councils; or
- The purchase of land and property.

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## 4 Council Policy

### 4.1 Procurement Principles

The procurement of goods and services is to occur in a planned and systematic manner and must:

- 4.1.1 deliver value for money taking into account life cycle cost, fitness for purpose, timely delivery, post-delivery support and effective warranty;
- 4.1.2 meet probity and ethical conduct requirements as specified in relevant Council policies;
- 4.1.3 promote the principles of continuous improvement in conjunction with sustainability values;
- 4.1.4 consider collaboration opportunities with other councils and/or public bodies;
- 4.1.5 embed risk management in the procurement process.

### 4.2 Non-allowable items

Council funds must not be used for:

- 4.2.1 travel, entertainment or goods and services for family members and personal associates of staff, unless approved in accordance with the Council Travel Policy.
- 4.2.2 personal expenses or purchases of a private nature, including the settlement of parking or traffic infringements.

### 4.3 Purchase Orders

Purchases paid for by corporate credit card must be undertaken in accordance with the Corporate Purchasing Card Policy.

A Purchase Order should be used as the method of payment for all purchases other than those exempted below. The purchase order must be raised and approved prior to receipt of any goods or services and invoices should state the purchase order number. All purchases must be raised on Council's finance system.

When Council staff are preparing a Purchase Order, unit price amounts must be exclusive of GST.

Purchase orders are not required for:

- Utilities – water, telephone, mobiles, gas, electricity, sewerage charges and Telstra Dial before you dig;
- Couriers;
- Australia Post;
- Medical accounts;
- Advertising;
- Ausdoc;
- Legal fees\*
- Memberships;
- Subscriptions;
- Building Regulations Lodgement Fees;

- Temporary Labour Hire engaged through Comensura;

\*Not all legal fees are able to be anticipated; where possible, a quote for legal fees should be sought prior to engagement to effectively manage spend.

#### 4.4 Procurement Procedures

Strategic Procurement provides a Strategic Procurement Framework that sits beneath the policy and provides guidance with processes and templates for procurement processes. Procurement activities must be undertaken in accordance with the value and risk-based requirements provided in the Strategic Procurement Framework.

##### 4.4.1 Planning

The expected life cycle cost of a procurement activity is required to be estimated before a decision on the procurement method is made (Whole of Life). The expected life cycle cost is the maximum value of the proposed contract, including options, extensions, renewals, licences or other mechanisms that may be executed over the life of the contract.

Procurement activity must consider the most appropriate manner to approach the potential supply market (market approach) in accordance with the guidance provided in the Strategic Procurement Framework and the thresholds listed in Item 5 of this Policy: 'Procurement Activity Thresholds'. A procurement activity must not be divided into separate parts or 'split' to avoid a market approach process or to reduce the level of delegation authorisation.

A procurement plan must be approved prior to commencing a market approach process, in accordance with the Strategic Procurement Framework. All procurement activity must be within the current/adopted budget. The plan must include the evaluation criteria, weighting, the evaluation panel, the anticipated value of the engagement, market engagement strategy and the procurement process. All procurement plans must state consideration to Quadruple Bottom Line (Item 4.7) as well as Collaboration (Item 4.6).

Procurement plans are to be approved by Strategic Procurement and the relevant department Manager unless the relevant Director elects to review and approve it.

##### 4.4.2 Procurement Engagement

All purchases requiring a tender are to be facilitated in conjunction with the Strategic Procurement team.

Council's standard market approach documents must be used unless approval for the use of other documentation is granted by Strategic Procurement. Documents must be developed in accordance with the requirements of the Procurement Framework.

Any market approach request greater than \$50,000 must be released and managed through Council's e-tender portal.

All responses to a market approach received by Council must be:

1. uploaded to Council records management system;
2. evaluated in accordance with the pre-established evaluation criteria; and
3. evaluated according to methodology as per the Strategic Procurement Framework.

#### *4.4.3 Evaluation Criteria*

The evaluation criteria, weightings and the evaluation panel must be established prior to market engagement. The criteria must clearly set out the mandatory, commercial and non-mandatory evaluation criteria. Council is not obligated to consider submissions that do not meet the mandatory criteria.

The aim of the evaluation process is to select a tender and/or quotation that offers the 'best value for money' 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 can negotiate with a preferred respondent or bidder to achieve an acceptable outcome, provided it is reflective of the brief or scope advertised.

#### *4.4.4 Evaluation*

Where an evaluation panel is required, the panel must consist of a minimum of 3 council staff. The panel composition should reflect the scale, complexity and value of the procurement activity. Where the procurement is a tender, the evaluation panel must include a Council staff member from a department that is not responsible for the contract. All members of the evaluation panel must complete a 'Conflicts of Interest and Confidentiality Statement' in accordance with the Strategic Procurement Framework.

Where external technical expertise is required to assist with the evaluation, the expert is able to provide the evaluation panel with advice and input only as a non-voting panel member (Technical Advisor). Any Technical Advisor must sign a conflict of interest declaration and confidentiality agreement, prior to sighting any procurement response documentation.

Council may conduct a shortlisting process. Shortlisted respondents may be invited by the Council to submit a Best and Final Offer.

#### 4.4.5 *Award*

An evaluation report is required at the completion of a procurement event (awarded or not) that explains the process undertaken and identifies the preferred respondent(s).

This report must be approved by the appropriate financial delegate and include:

- the scope of any procurement requirements;
- the internal and external stakeholders;
- the evaluation panel composition;
- declaration/disclosure of conflicts of interest of panel members;
- the procurement process undertaken (market approach);
- a summary of responses received;
- demonstrate diligence and completeness of evaluation against the evaluation criteria;
- assessment of commercial considerations;
- assessment of financial considerations, including budget impacts;
- commercial considerations including contract negotiations;
- any relevant transitional issues; and
- recommendation.

All respondents must have access to a debriefing at an appropriate point in the procurement process. Debriefings are the responsibility of the Council staff member leading and/or facilitating the procurement activity.

Council standard contract terms and conditions should be used wherever possible. Where standard terms and conditions are not suitable or possible, approval must be obtained from the appropriate financial delegate to proceed. The financial delegate should consider if legal advice is required.

All contract negotiations must be finalised prior to the acceptance of the works, goods or services being procured.

## 4.5 Procurement Governance

Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.

### 4.5.1 *Conflicts of Interest*

Conflicts of Interest are defined in sections 127, 128 and 129 of the Local Government Act 2020. All persons engaged in purchasing- including planning, market approach, evaluation of quotations or tenders and/or the management of contractors- must adhere to this policy and complete a Conflict of Interest and Confidentiality declaration in accordance with the Strategic Procurement Framework.

#### 4.5.2 *Confidentiality*

Anyone involved in a procurement activity must maintain confidentiality of the Commercial in Confidence information. 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, cost base, manufacturing and sensitive/proprietary product information.

#### 4.5.3 *Probity*

Council's procurement activities are to be conducted with integrity and transparency and will:

- treat potential and existing suppliers with equality and fairness;
- use consistent and transparent processes;
- not seek or receive personal gain or advantage;
- 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 that are paid from Council's accounts payable system and not engaged through temporary labour hire or on payroll, are prohibited from undertaking procurement activity on behalf of Council.

Staff previously employed by Council are unable to be engaged as a Contractor for a minimum of 12 months after their last paid date, unless exempted by the CEO.

All staff must complete probity, procurement, contract management and system training prior to undertaking procurement activities, including contract management.

#### 4.5.4 *Probity Advisor*

For tenders deemed to be of material significance or deemed to be of high risk, a Probity Advisor may be appointed by Strategic Procurement.

Where a requirement for Probity Advisor is nominated in the Procurement Plan, the Probity Advisor will be engaged prior to the commencement of the procurement process.

Where a requirement for Probity advice is nominated during the procurement process, the process will be put on hold and only recommence following the engagement and advice of the Probity Advisor.

#### 4.5.5 *Probity Auditor*

Any procurement process may be nominated to be the subject of a Probity Audit by suitably qualified independent auditors at the discretion of the CEO or department Director.

The Probity Auditors will provide a full report to both the Director and Chief Executive Officer at the conclusion of the Audit, as appropriate.

### 4.6 Collaboration

In accordance with Section 108 (c) of the Act, the Council will 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. This is to be considered within the planning stages of the procurement activity. Collaboration opportunities may be identified by the Strategic Procurement team.

Collaborative procurement is the centralisation of the procurement of goods, services or works which are repetitive and common to multiple organisations, or that are highly complex and benefit from specialisation.

All procurement reports must include explanation if a collaboration activity was not undertaken.

### 4.7 Quadruple Bottom Line

Council is committed to environmental, local and social economic sustainability and will apply a mandatory minimum evaluation weighting of 10% to at least one of these criterion.

Council officers must consider how to apply the weighting to their purchase and are encouraged to apply 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. Strategic Procurement will progressively develop these procurement channels for the organisation.



Council evaluation will give preference to:

- 4.7.1 purchase or use of recycled and environmentally preferable products;
- 4.7.2 goods with relevant ecolabels and certification.
- 4.7.3 purchase of goods, machinery or material manufactured in Australia and New Zealand;
- 4.7.4 purchases from social enterprises;
- 4.7.5 positive gender equality and diversity impacts;
- 4.7.6 indigenous suppliers; and
- 4.7.7 local suppliers.

For all procurement processes valued at less than \$50,000, Council purchasers are to endeavour to engage a local, social or indigenous supplier in the first instance.

#### 4.8 Contract Development, Execution and Management

Contract periods for procurement activities of a long-term nature should generally be set at three years, with two further one-year extensions. Wherever possible, contract extensions defined in contracts must be set to occur at the sole discretion of Council.

Contracts must be managed in accordance with Council's OHS policies and procedures, the Council Contract Management Manual and this Policy.

All procurement contracts must have a Council staff member assigned as the contract manager.

All contract variations must be managed in Council's contract management system, against the original contract.

##### 4.8.1 Variations

The financial delegations must be complied with when approving and executing a variation or amendment to a contract. Variations must not be deliberately split to avoid delegation approval. The Delegate must ensure that budget is available for the variation.

Variations to contracts are to be managed in Council's contract management system, following the appropriate internal processes.

Regular reporting on contract variation activity will be provided to the executive management team by Strategic Procurement.

Variations that change the scope of contract by  $\geq 20\%$  may require a new contract to be established.

Activity	Action
The cumulative contract value (all variations + original contract sum) exceeds the original delegation approval authority	The next highest delegation authority must review the contract and approve the variation in order to proceed.
The cumulative contract value (all variations + contract sum) exceeds the threshold for the procurement process undertaken	The delegated authority must review and determine if the variation may proceed
The cumulative contract variations exceed 20% of the contract sum	Where the original contract value is <\$250,000, the department manager must review the variations in consultation with Strategic Procurement to determine if a scope change has occurred. Where the original contract value is >\$250,000, the Director must review the variations in consultation with Strategic Procurement to determine if a scope change has occurred.
The variation is unbudgeted	The delegated authority must determine if the variation may proceed; following appropriate internal consultation, including the CFO.

#### 4.8.2 Panel Contracts

Council may use contracts established by other councils, government/public bodies, tender agents such as Procurement Australasia (PA) and Municipal Association of Victoria (MAV) and contracts established in-house. These are all collectively referred to as Panel Contracts.

When establishing a new panel contract, a procurement report is required, demonstrating value for money is achieved in the use of the panel and for how long the panel will be used.

Where Council has established access to a panel contract, staff must seek and obtain a minimum of three quotes within the panel and provide sufficient justification for the selection of the supplier – such as price and availability, within Council's finance system.

Where the panel consists of less than three suitable suppliers, a quote should be obtained from all suppliers on the panel. Sufficient justification for the selection of the supplier is required to be provided within Council's finance system.

#### 4.9 Responsibilities

The Strategic Procurement team is responsible for oversight of procurement activity to ensure compliance with this Policy.

Staff undertaking purchasing must:

- 4.9.1 not authorise procurement activities in excess of their financial delegation;
- 4.9.2 not split or divide purchasing activity to avoid authorisation processes or financial delegation approvals;
- 4.9.3 not approve expenditure that relates to themselves (for example: training, professional development, etc). Expenditure of this nature must be referred to the next higher level of authority for approval;
- 4.9.4 ensure that any purchase orders are generated and approved at the point of commitment to purchase goods, services or building and construction – prior to invoice;
- 4.9.5 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; and
- 4.9.6 Ensure all records are stored appropriately in the relevant file in accordance with the Records Policy

All council staff are responsible for ensuring that they comply with this Policy.

#### 4.10 Exemptions

A Director or CEO may grant exemptions to the procurement requirements, upon receipt of a completed Exemption Request, in the following circumstances:

- 4.10.1 there is only one available supplier in Australia, where specialist expertise is required, or where the goods or services can only be supplied by a particular supplier and no reasonable alternative or substitute goods or services exist;
- 4.10.2 engagement of Traditional Owners where the primary purpose of the procurement activity involves services or information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the *Aboriginal Heritage Act 2006 (Vic)*;
- 4.10.3 no responses from a market approach process are received from suppliers, or responses do not conform to the request documentation, or are deemed to be unsuitable;
- 4.10.4 the goods or services cannot be obtained in time under the required processes because they are urgently required ('urgent' applies to health, security or safety consequences or

critical incidents, unforeseen events or occurrences only);

- 4.10.5 software upgrades or licensing of proprietary IT software or products (i.e. where a change in supplier would necessitate the procurement of goods and services that do not meet current operability or changeability requirements) - provided a review of performance and suitability has been conducted by the IT department and is included with the exemption request;
- 4.10.6 a State Government purchasing contract, approved purchasing schemes, aggregated supplier or tender agent contracts, such as Procurement Australasia and Municipal Association Victoria. This includes Councils and public bodies, the Construction Supplier Register (CSR) and e-Services panel- provided that the market approach complies with The Act;
- 4.10.7 The procurement of goods or services from a particular supplier is specified as part of a government grant or similar arrangement;
- 4.10.8 Professional services unsuitable for tendering – e.g. legal services and insurances (excluding brokerage services); however, quotation engagement is still required; and
- 4.10.9 or other exceptional circumstances as determined by the Chief Executive Officer.

Exemption from the Procurement policy and procedure requirements only applies to the market approach process, and does not exempt the procurement activity from financial delegation, legal, commercial, risk management or approval processes.

A record of approved exemptions is to be maintained and regularly reported to the CEO.

#### 4.11 Approval of Exemptions

To obtain an exemption, an Exemption Request must be submitted to the Strategic Procurement team in the appropriate format.

The Strategic Procurement team may seek further information from the person requesting the exemption.

Strategic Procurement must endorse the exemption prior to the appropriate delegate reviewing the exemption.

Where an exemption is sought, no commitment to a supplier may be made until the request is approved.

#### 4.12 Record Keeping

All documents and records associated with the purchase of goods or services must be uploaded into Council document management system.

The appropriate detail of documentation should be commensurate with the scale, scope and risk of the procurement. Documentation should provide accurate and concise information on the following as a minimum:

- 4.12.1 the requirement for the procurement;
- 4.12.2 the process that was followed;
- 4.12.3 the market approach documents and any supplier responses to a market approach;
- 4.12.4 how value for money was considered and achieved;
- 4.12.5 reports containing relevant decisions and the basis of those decisions;
- 4.12.6 the contract;
- 4.12.7 all communications, including debriefings, with suppliers during the procurement activity; and
- 4.12.8 all communication and decisions during the term of the contract.

Council must maintain appropriate documentation with the supplier, such as a written contract or purchase order.

## 5 Procurement Activity Thresholds

The following table sets out the minimum process(es) to be followed when making a purchase or entering into a contract. If a purchase is deemed as high risk, the goods or services are unknown or uncommon, or if a better procurement outcome can be achieved through a higher threshold process, it is recommended a higher threshold process be followed.

The purchase value must consider Whole of Life costs.

Value of Purchase (incl. GST)	Procurement Method Minimum requirement
<b>\$0-\$10,000</b>	Simple Quotation Process Minimum of 1 quote
<b>\$10,001-\$50,000</b>	Simple Written Quotation Process Minimum of 3 written quotes
<b>\$50,001-tender threshold</b>	Detailed written quote process Minimum of 3 detailed quotes conducted through the Council tender portal
<b>&gt;\$250,000 Goods and Services &gt;\$500,000 ICT &amp; Works</b>	Public tender process

## 6 Delegation Limits

Council approves the delegations to the Chief Executive Officer (CEO). The CEO authorises delegations to Council officers, which are recorded in the delegation register, separate to this document.

The CEO has delegation of \$3,000,000.

Council maintains a framework of internal controls over procurement processes including regular internal audit review. Without exception, all transactions above \$2,000 must involve at least two council officers.

## 7 Definitions

For the purpose of this Policy:

Act	The <i>Local Government Act 2020</i> .
Best and Final Offer	A stage of a multi-stage procurement process where respondents submit their best and final offer. A Best and Final Offer can only occur once in a procurement process.
Collaborative Procurement	The procurement process involving other Councils or public bodies, conducted by or on behalf of Council.
Council	Means Knox City Council, whether constituted before or after the commencement of this Policy.
Community Group(s)	Means a legal entity who provide services, support or activities to the Knox community.
Goods and Services	The supply of equipment, consumables and like items, or the provision of services.
Director	A member of the Executive Management Team
ICT	Information and Communications Technology.
Indigenous Business	The Victorian Government defines an Indigenous business as a business that is “at least 50% owned by Aboriginal or Torres Strait Islands person(s), undertaking a commercial activity and the main business location is in Victoria.”
Individual(s)	Means a resident(s) of the Knox Municipality.
Local Business	A commercial business operating within the Knox municipality.
Market Approach	the process used to invite offers from suppliers, including a Request for Quotation, Expression of Interest, Request for Tender, Request for Information or similar process.
Probity	The integrity, completeness and honesty in the context of procurement process; ensuring transparency and accountability for the outcomes.
Probity Advisor	A suitably knowledgeable person or organisation that provides advice on probity considerations. The advisor may be an internal or external resource, depending on the skill and knowledge required.
Probity Auditor	A suitably qualified or experienced person or organisation that checks and confirms the procurement process has been managed in a transparent and fair manner. The auditor may be an internal or external resource, depending on the skill and knowledge required.
Procurement Plan	The written plan detailing the evaluation process, criteria, weightings and panel for the proposed procurement activity. A template is provided in the Strategic Procurement Framework.
Procurement Report	The written report detailing the consideration and evaluation of the procurement activity undertaken in accordance with the Procurement Plan and seeks approval of a panel recommendation. A template is provided in the Strategic Procurement Framework.
Respondent	An external individual, partnership or company submitting a response or quote for a Council procurement process.

Social Enterprise	The Victorian Government defines Social Enterprises as “businesses that trade to intentionally tackle social problems, improve communities, provide people access to employment and training, or help the environment. They derive most of their income from trade (not donations or grants) and use the majority of their profits (at least 50%) to contribute to their social mission.”
Strategic Procurement	The team/service area that coordinates the Councils strategic procurement activities and acts as an advisory body for procurement matters.
Strategic Procurement Framework	Strategic Procurement provides a Strategic Procurement Framework sits beneath the policy and provides guidance with processes and templates for procurement processes. Procurement activities must be undertaken in accordance with the value and risk-based requirements provided in the Strategic Procurement Framework.
Supplier	an external individual, partnership or company engaged to provide goods and services to Council.
Technical Advisor	Provides technical advice to the evaluation panel to consider as part of their evaluation. The technical advisor is non-voting.
Value for Money	a process for assessing the best outcome from a market approach activity that assesses the capabilities and competencies of each supplier against the price submitted by each supplier. It takes into account financial and non-financial factors including price, the total life cycle consideration, environmental, social and economic factors.
Works	Where the purchase relates to the construction of fixed assets and infrastructure, such as roads, gardens and
Whole of Life	the full cost of the goods or services purchased including but not limited to planning, development, implementation, ongoing management, maintenance, disposal, decommissioning and transition. The life cycle cost is the full cost across all of the years of a potential contract.

## 8 References

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

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

#### Relevant Legislation

- Local Government Act 2020
- Competition and Consumer Act 2010
- Aboriginal Heritage Act 2006
- Goods Act 1958

#### Charter of Human Rights

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

#### Related Council Policies

- Corporate Purchasing Card Policy
- Child Safe Policy
- Fraud Policy
- Gifts and Hospitality (Staff and Official Representatives of Council) Policy
- Protected Disclosure Policy

- Staff Travel Policy
- Funding Allocation Policy
- Staff Code of Conduct
- Disciplinary Policy
- Records Management Policy

**Related Council Procedures**

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

**Other Documents**

- Strategic Procurement Framework
- Authorisation Register
- Delegations Register
- Victorian Local Government Best Practice Procurement Guidelines
- Council Climate Response Plan 2021-2031

## 9 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.