

## Guideline: Evaluation and Negotiation

### 1. Evaluation Process

The process to evaluate and negotiate the supply of goods, service and works is determined by the procurement process used. The aim of the evaluation process is to select a supplier that provides the best value for Council and the community while ensuring that all suppliers are treated in a fair, equitable and impartial manner.

#### General

Council officers must ensure that:

- Late proposals are not accepted, unless a technical issue with eProcure or any other tendering portal used can be demonstrated.
- The evaluation process is robust, transparent and unbiased.
- The evaluation criteria released with the tender, EOI or quote documentation is not amended after the closing date and time, and the weightings against the criteria are not amended once submissions are received.

#### Evaluation

All evaluations must be undertaken using a consistent methodology taking into consideration the principles outlined in Section 6.4 of the Procurement Policy and this guideline. Proposals are to be evaluated according to the approved Evaluation Plan.

#### Evaluation Panel

##### General

An appropriately qualified and briefed evaluation panel (the panel) will be established to evaluate each submission against the evaluation criteria and weighting. The composition of the Panel is a matter of judgement and depends ultimately on the level of skill and experience required to evaluate the submission(s). The panel must comprise of at least two (2) persons as well as an independent chairperson (i.e. minimum of three (3)) or other odd number.

Evaluation panels may include external parties who specialise in the area in order to ensure appropriate skills, experience and/or probity and to achieve the best outcome for the procurement activity. All members, including the chairperson and any external specialist assisting in the process, must complete a 'Conflict of Interest and Confidentiality' Declaration prior to receiving submitted proposals.

Each panel member is to undertake a systematic assessment of each proposal using the evaluation criteria published in the invitation documentation.

The panel will advise on:

- evaluation criteria prior to inviting a quote or tender; and
- evaluation criteria weighting prior to the procurement activity closing date and time.

At the conclusion of the individual assessments, the Panel will review each individual panel member's evaluation as a group to:

- Allocate overall scores awarded for each submission against each of the selection criteria;
- Check references; and
- Review any other information provided which is critical to the evaluation.

Throughout this process, Panel members must be mindful of the sensitivity of the information. Therefore, the handling, copying and distribution of all materials must be controlled to ensure the security of such information. In addition, any copied material relating to the submissions must be stored securely when not in use.

### **Requests for Tender and Expression of Interest**

An evaluation panel must be formed with a minimum of two (2) members and a chairperson or other odd number to evaluate responses to Requests for Tender.

Where a request for tender relates to a procurement activity with a value of **\$500,000 or greater**, it is highly recommended that the evaluation panel include an independent or subject matter expert from outside the relevant business unit.

For requests for tender, and in accordance with the Procurement Policy, the chair of the evaluation panel must hold a Council position, as follows:

- Level 4 (Co-ordinator) where the tender is **less than \$1M**
- Level 3 (Department Manager) where the tender is **greater than \$1M and less than \$10M**
- Level 2 (Director/General Manager) where the tender is **greater than \$10M**.

### **Evaluation Plan**

A detailed Evaluation Plan shall be developed, approved and strictly adhered to by the panel. Amongst other things this involves the establishment of more detailed evaluation criteria, the application of a pre-approved and weighted scoring system, and probity escalation process. The Evaluation Plan will be completed and approved prior to the invitation closing date and time.

### **Evaluation criteria**

Council officers must ensure:

- Evaluation criteria include both price and non-price factors (risk, quality and contribution to council's social and sustainability objectives).
- Evaluation criteria are included in the invitation documents that are released to the public or suppliers to allow a transparent and equitable approach to the market.
- That evaluation criterion may include: Price, Capability (skills, experience), Capacity (including financial viability), Methodology (approach) and Social and Sustainability (local, social, economic and environmental) with specific criteria for capacity, local, social, economic and environmental sustainability objectives being determined on a project by project basis.

- The evaluation criteria must not change once the invitation has been released, unless all registered suppliers are notified appropriately via an addendum.
- Evaluation weighting for each criterion are documented prior to the closing of the procurement activity.

## Weightings

### Capacity (financial viability assessment)

A financial viability assessment evaluates the risk that, over the life of a proposed contract, a potential supplier:

- may not be able to deliver the goods and services which are specified in the contract; or
- may not be able to fulfil guarantees or warranties provided for in the contract.

The responsibility for undertaking the financial viability assessment (including any credit rating review) during a particular procurement process will be the Procurement Business Partner.

The process for viability assessments should be conducted at an appropriate time in the procurement process to minimise costs and time for both Council and respondents. Consequently, the timing within a procurement process and the extent of financial viability assessments should be determined on a case by case basis.

As conducting financial viability assessments imposes a cost on respondents and Council, assessments should be commensurate with the scale, scope and relative risk of the proposed project. In assessing risk, consideration should be given to the likelihood and consequence of a financial viability issue in the procurement and subsequent contract. Specifically, consideration should be given to:

- the likelihood of a financial viability risk given the nature of likely respondents, the maturity of the industry, economic conditions, and the history of financial failure in the industry; and
- the consequence to Council if the supplier or contractor does experience a financial viability incident during the project or contract - this will be heavily dependent on the importance of the good or service to Council or its stakeholders.

Irrespective of the level of risk, Council should ensure that request documentation:

- Enables Council to complete further financial checks.
- Includes a mechanism for excluding high financial viability risk respondents, where risks cannot be appropriately managed.
- Requires each respondent to submit a certified declaration on the financial viability of the respondent, before or when submissions are lodged. The declaration should attest to the financial position and financial strength of the business and specific issues that could impact on operations over the course of the proposed contract. The declaration should also address legal risks and any unmitigated risk exposures.

The requirements for the financial viability assessment should be considered when planning the procurement activity. In designing the tender process, Council officers should consider what financial information will be necessary for respondents to provide with their response to enable Council to assess financial soundness. The documents required depend on the risk of the project.

Financial viability assessments may include (dependent upon the scale, scope and relative risk of the proposed project):

- Analysing expected annual contract value in comparison to supplier turnover and setting an appropriate limit.
- Assessment of current financial statements and history of financial performance including considering profitability, net assets, level of capital and the application of associated relevant financial ratios.
- Review of credit agency reports including credit rating. Ratings agencies can be a source of background information and financial viability information which can support a consideration of supplier financial viability. In addition, regulatory registry information, including that held by the Australian Securities & Investments Commission, the Australian Business Register and various State and Territory registers can provide useful information for consideration in financial viability assessments.

**Price**

Unless otherwise approved by the Strategic Procurement and Contracts Team and/or the relevant Director, all public tenders and formal Requests for Quotation shall be conducted on the basis that ‘Price’ (Quantitative) is weighted at a minimum of 10% as part of the evaluation criteria.

**Local preference/benefit**

Driving value for money is the primary purpose of the Policy. All Procurement activities must achieve the best return and performance for the money being spent, practising good governance utilising public money; however, price is not the sole indicator of value. A major contributor to value for Council and the community is the benefits to the economy gained by utilising local businesses.

Council encourages the development of competitive local business within the Boroondara municipality and its adjoining municipalities. To support this, and, where possible, Council mandates a weighting of up to 10% for Local Benefit in all evaluations. The specific percentage is to be determined for each procurement activity according to the complexity, category, project type and/or discretion of the department responsible for that procurement activity. All suppliers will be requested to demonstrate local benefits to the Boroondara municipality. Local Benefit is defined in accordance with the table below:

Score (out of 5)	Local Supplier/Contractor <sup>1</sup>	Score (out of 5)	Local Content <sup>2</sup>
5	Sole Office or Head Office within Boroondara municipality	5	85-100% of content is sourced <sup>4</sup> from within the Boroondara municipality
4	Branch Office within Boroondara municipality	4	60-84% of content is sourced <sup>4</sup> from within the Boroondara municipality
3	Local Subcontractor(s) or employees conducting the majority <sup>3</sup> of works	3	45-59 % of content is sourced <sup>4</sup> from within the Boroondara municipality
2	Adjacent Local Government businesses	2	40-44% of content is sourced <sup>4</sup> from within the Boroondara municipality

Score (out of 5)	Local Supplier/Contractor <sup>1</sup>	Score (out of 5)	Local Content <sup>2</sup>
1	All other Victorian locations	1	1-39% of content is sourced <sup>4</sup> from within the Boroondara municipality
0	All Other	0	0% of content is sourced <sup>4</sup> from within the Boroondara municipality

<sup>1</sup> Local Supplier/Contractor is defined as all physical workforce requirements (e.g. people, labour hire)

<sup>2</sup> Local Content is defined as all non-workforce requirements (e.g. equipment hire, materials, fuels, enabling services, etc.)

<sup>3</sup> Majority is defined as more than 2/3 of the works

<sup>4</sup> "Sourced" is defined as "purchased from," as opposed to the products origin or original point of manufacture.

The Local Benefit score is to be established through the use of a Suppliers Demonstrated Local Benefit Statement. When evaluating Local Benefit, the Demonstrated Local Benefit Statement it is to be used to determine whether the supplier is, or is contributing towards:

- The use of local materials, and/or assembly and fabrication in the region;
- Not locally based, but utilising local goods, materials or services;
- The use of local transport carriers, holding yards or distribution warehouses;
- The use of local Supplier/Contractors, sub-contractors/supplier and/or labour hire; and
- The level of local employment, apprenticeships, or other community or local business 'multiplier' benefit or effect on the region.

The use of the table above will depend on the type of procurement activity that is being evaluated. In some instances, both the "Content" and "Supplier/Contractor" categories will be applied, and an average of the two scores is to be used in the evaluation. If there is an anticipated absence of local Supplier/Contractors or content for a procurement activity, this does not permit the removal of the Local Benefit weighting from the evaluation criteria without approval from the Procurement Team and/or Director.

**Local Price Advantage (under \$250,000 only)**

For all procurement with an expected worth less than \$250,000, if the best pricing is not from within the Boroondara municipality business but the local business's price is within 5% of the price from a business outside the Boroondara municipality, then the local business must be selected, if a like-for-like comparison is available, and where all other criteria evaluated are the same between the local business and the business outside the Boroondara municipality.

## Social

Council will seek to advance social objectives to benefit the community by purchasing from for-social benefit entities, and indirectly by including social clauses in its contracts with private sector providers and screening supply chains for ethical considerations.

To support this, Council mandates, where possible, a weighting of up to 10% preference in the evaluation of proposals that are from:

- Social Enterprises or include Social Enterprises in their supply chain; and/or
- Aboriginal businesses or include Aboriginal Suppliers in their supply chain.

## Environmental

Council seeks to make procurement decisions that align with Council's key strategic commitment to environmental sustainability. This will be achieved by promoting:

- Green purchasing (i.e. making purchases that use materials made of recycled content, are energy efficient and greenhouse friendly or are second hand/refurbished);
- Reduced greenhouse gas emissions;
- Reduced waste to landfill and the increase of the amount of waste recycled;
- Reduced water consumption and the improvement of water management;
- Improved environmental management in Council's supply chain;
- The selection of products/services that have minimal effect on the depletion of natural resources and biodiversity; and
- Improved adaptability to climate change.

To support this, Council mandates, where possible, a weighting of up to 10% preference in the evaluation of proposals in relation to demonstrating the:

- Supplier's commitment to environmental sustainability; and
- Supply of products/services that have a relatively lower environmental impact.

As part of the environmental sustainability evaluation, Council officers may seek details relating to the supplier's commitment to environmental sustainability, including information in relation to:

- environmental management systems;
- any actions to improve environmental credentials;
- environment policy; and/or
- any activities to manage environmental impact.

As part of the product/service environmental impact evaluation, Council officers may seek to assess suppliers against any relevant industry standard that exist. In this regard, it may be difficult to assess suppliers against

one another given the many different approaches to environmental management. Council officers will need to make a balanced judgement against multiple competing standards.

Council will also include any minimum environmental standards that are:

- required in the specifications released to market; and
- considered highly important in its contracts.

### **Shortlisting**

Council may conduct a shortlisting process during tender, proposal and quotation processes. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for the Council.

Shortlisted vendors may be invited by the Council to submit a best and final offer in relation to all or certain aspects of their respective proposal.

### **Evaluation Report**

Evaluation panels will produce a written report of their evaluation using the appropriate prescribed template. The evaluation report, approved by the relevant delegate, must document the results of the evaluation and a demonstration of the robustness of the procurement process.

For engagements under \$500,000 excluding GST, the written evaluation and recommendation must include details of all suppliers contacted and their quotations and must only be approved and signed off by an appropriate Council officer in accordance with their respective financial delegation and procurement authority limit.

For engagements of \$500,000 excluding GST or above, the evaluation report must accompany a Council report as a confidential attachment.

The evaluation and recommendation document including the original suppliers' quotations or Best and Final Offer and the evidence of formal approval and sign-off must be maintained in Council's electronic document management system.

## **2. Contracts**

### **Contract negotiations**

Once a preferred supplier(s) is/are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, providing scope remains within the intent of the tender. Probity requirements apply to all negotiations.

### **Contract management**

Good contract management ensures goods, services or works are delivered to the required standards of quality and quantity as intended by the contract through:

- Establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract.
- Providing a means for the early recognition of issues and performance problems and the identification of solutions.
- Adhering to the Council's risk management framework and relevant work Health and Safety and sustainability requirements.

Council contracts are to include contract management requirements commensurate with the complexity of the procurement.

Furthermore, contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure the Council and therefore the community, receives Value for Money.

Council awards some contracts that are strategically critical and of relatively high value. Council will provide additional senior oversight of the management of a significant contract.

### **Debrief**

A debrief notification is mandatory regardless if the Supplier was successful or unsuccessful. A debrief must be provided to all unsuccessful suppliers upon request however, cannot take place until the procurement activity is finalised and approved by the relevant financial delegate. Council officers should remain cognisant of any confidentiality requirements; however, are authorised to disclose the name of the successful supplier and the price that was accepted.

This session may provide the supplier with enough information to assist them to improve responses and/or performance in the future, and must not be a comparison session to the successful supplier.

Details of debrief feedback sessions to suppliers should be fully documented in the Electronic Document Management System.