

## Guideline: Exemption Definitions

The circumstances set out in the table below are exempt from the general tender, request for proposal, quotation and expression of interest requirements of the Boroondara City Council Procurement Policy.

Procurement Policy exemptions are subject to formal approval processes from the relevant director, including the preparation of the Exemption Request template where there is justification for not seeking the minimum number of quotes, and the value is under \$500,000 excluding GST.

The following circumstances to be exempt from the Procurement Policy are subject to formal CEO approval using the CEO Exemption Application template:

Where a contract is due to expire and:

- there is an ongoing need for the goods, services or works provided under the original contract
- the goods, services or works provided under the original contract cannot conveniently or economically be provided or undertaken by anyone in the market other than the original contractor; and
- the proposed new contract with the original contractor has been assessed to ensure that it continues to represent best value for money;
- where inquiries into the relevant market have revealed that there is only one supplier or provider, or one viable supplier or provider, of the goods, services or works to be procured; and
- where the Chief Executive Officer is satisfied, on reasonable grounds, that not going to market will produce a better, or better value, outcome for Council.

Exemption Name	Explanation, limitations, responsibilities and approvals
1. Genuine emergency or hardship	<ul style="list-style-type: none"> <li>● Where the Council has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster).</li> </ul>
2. A purchase from a contract made by another government entity, government-owned entity or other approved third party	<ul style="list-style-type: none"> <li>● This general exemption allows engagements with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government.</li> <li>● Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA).</li> </ul>
3. Extension of contracts while Council is at market	<ul style="list-style-type: none"> <li>● Allows Council to extend an existing contract for a period of no more than six months where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or have taken longer than expected.</li> <li>● This exemption may be used when the establishment of an interim short-term arrangement is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</li> </ul>
4. Professional services where tendering may be inappropriate	<ul style="list-style-type: none"> <li>● Legal Services.</li> <li>● Municipal Association of Victoria for Liability Mutual Insurance Services</li> </ul>

Exemption Name	Explanation, limitations, responsibilities and approvals
5. Novated Contracts	<ul style="list-style-type: none"> <li>Where the initial contract was entered into in compliance with the Procurement Policy and/or <a href="#">Local Government Act 2020</a> (Vic) and due diligence has been undertaken in respect to the new party.</li> </ul>
6. Information technology resellers and software developers	<ul style="list-style-type: none"> <li>Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software, who holds the intellectual property rights to the software.</li> </ul>
7. Regional Waste Management Groups	<ul style="list-style-type: none"> <li>Situations where a Regional Waste Management Group constituted under section 50F of the <a href="#">Environment Protection Act 2017</a> (Vic) had already conducted a public tender for and on behalf of its member councils.</li> </ul>
8. Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> <li>Motor vehicle compulsory third party</li> <li>WorkCover</li> </ul>
9. Operating Leases	<ul style="list-style-type: none"> <li>Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.</li> </ul>
10. Variations under contract	<ul style="list-style-type: none"> <li>Where a variation occurs the delegation is defined by the value of the variation, not by the value of the whole contract. An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit in the delegation.</li> <li>Approved budget must be available for all variations.</li> </ul>
11. Other specific Council exemptions	<ul style="list-style-type: none"> <li>Utility companies.</li> <li>Specific Council exemptions will be reviewed and update from time to time.</li> </ul>