

## 7.3 Procurement Policy Annual Review 2019

### Abstract

Section 186A of the *Local Government Act 1989* requires all councils to review their Procurement Policy at least once in each financial year and, if necessary, revise the Policy.

Council's current Procurement Policy was adopted by Council in June 2018. A review of the Policy has been completed. The policy is believed to have provided sound guidance and a consistent framework for the conduct of Council's procurement activities. Amendments detailed below have been recommended for Council adoption as a result of this annual review. The amendments cover:

1. Minor text and grammatical changes;
2. Rewording of the "Forward" to remove outdated references;
3. Repositioning of the "Purpose" section (now 1.2), to better align with current Council policy template layouts;
4. Updating of out of date organisational references, e.g. section 3.3;
5. Inclusion of a new section "Management of Public Tender Submissions" (section 3.6) and in particular how to address the exception process of late submissions due to technical issues. This section reflects guidance issued in the Victorian Government Purchasing Board Policy suite;
6. Clearer direction about how quotes are to be managed and aligning decision making thresholds with approved Procurement Authority Limits which formally grant staff a relevant approval limit, section 4.2.2;
7. Inclusion of a new section 4.2.3 "Pre-approval process - Insufficient suppliers identified or urgent works", to establish a pre-approval process for situations where it will not be possible to obtain the required number of quotes and detail on who can approve these arrangements;
8. An update to wording in section 9.3 "Health and safety considerations" to introduce the same wording as now used in Council's OH&S policy material; and
9. Clearer language around acceptance of "other than Council's standard contractual terms and conditions - section 9.4.1". The draft policy contains a proposed amendment to require Director approval of "other than Council standard terms and conditions". This will ensure consistent decision making of acceptance of changes to either Council terms or third party terms.

The revised Policy is now presented to Council for formal adoption.

It should also be noted a review of the Local Government Act 1989 is currently underway. Should the Bill receive Royal Assent in the term of this parliament, Council will be required to adopt a new Procurement Policy.

## Officers' recommendation

That Council resolve to:

1. Note the review of the Procurement Policy undertaken in accordance with the requirements of the *Local Government Act 1989*.
2. Adopt the Procurement Policy, as detailed in **Attachment 1**.

**Responsible director: Bruce Dobson**  
**Customer Experience and Business Transformation**

---

## 1. Purpose

For Council to note the outcomes of the annual review of the Procurement Policy and to adopt the revised Procurement Policy (**Attachment 1**) prepared to comply with requirements of the *Local Government Act 1989* (the Act).

## 2. Policy implications and relevance to community plan and council plan

This report is aligned with the Council Plan 2017-21, Theme 7: Civic Leadership and Governance and Strategic Objective 7 of the Boroondara Community Plan 2017-27, to "*Ensure that ethical, financial and socially responsible decision making reflects community needs and is based on principles of accountability, transparency, responsiveness and consultation*".

## 3. Background

Section 186A of the *Local Government Act 1989* requires:

1. *A Council must prepare and approve a procurement policy.*
2. *A Council must within 12 months after the commencement of section 67 of the Local Government Amendment (Councillor Conduct and Other Matters) Act 2008 prepare and approve a procurement policy.*
3. *A procurement policy must include any matters, practices or procedures which are prescribed for the purposes of this section.*
4. *A Council must have regard to guidelines made under subsection (5) in preparing a procurement policy.*
5. *The Minister may make guidelines with respect to the form or content of a procurement policy.*
6. *Guidelines made under subsection (5) must be published in the Government Gazette.*
7. *At least once in each financial year, a Council must review the current procurement policy and may, in accordance with this section, amend the procurement policy.*
8. *A copy of the current procurement policy must be available for inspection by the public-*
  - a. *at the Council office; and*
  - b. *on the Council's Internet website.*
9. *A Council must comply with its procurement policy.*

Officers have confirmed with Maddocks lawyers that no prescribed guidelines or prescribed material has been issued by the Minister in respect of sub-sections 3, 4, 5 and 6 above.

## 4. Outline of key issues/options

As noted in subsection (7) above, the *Local Government Act 1989* requires an annual review of the Procurement Policy.

Officers believe the current Procurement Policy adopted by Council in June 2018 has generally worked well.

Council-wide information sessions conducted by the Procurement Team over the last 12 months covering Council staff responsibilities and accountabilities detailed in the Policy have raised visibility of the Procurement Policy generally. A key message from these presentations was to seek input from all Business areas on wording they thought could be clearer or topics they thought the Policy was silent on and therefore needed expanding to better provide adequate guidance and oversight of Council's procurement activities. Based on this broad feedback from all Business areas a number of changes are recommended to improve the Policy, in particular:

1. Minor text and grammatical changes;
2. Rewording of the "Forward" to remove outdated references;
3. Repositioning of the "Purpose" section (now 1.2), to better align with current Council policy template layouts;
4. Updating of out of date organisational references, e.g. section 3.3;
5. Inclusion of a new section "Management of Public Tender Submissions" (section 3.6) and in particular how to address the exception process of late submissions due to technical issues. This section reflects guidance issued in the Victorian Government Purchasing Board Policy suite;
6. Clearer direction about how quotes are to be managed and aligning decision making thresholds with approved Procurement Authority Limits which formally grant staff a relevant approval limit: section 4.2.2;
7. Inclusion of a new section 4.2.3 "Pre-approval process - Insufficient suppliers identified or urgent works", to establish a pre-approval process for situations where it will not be possible to obtain the required number of quotes and detail on who can approve these arrangements;
8. An update to wording in section 9.3 "Health and safety considerations", to introduce the same wording as now used in Council's OH&S policy material; and
9. Clearer language around acceptance of "other than Council's standard contractual terms and conditions - section 9.4.1". The draft policy contains a proposed amendment to require Director approval of "other than Council standard terms and conditions". This will ensure consistent decision making of acceptance of changes to either Council terms or third party terms.

The revised Policy maintains the same high level of involvement by the Commercial and Property Services team in procurement processes.

## **5. Consultation/communication**

Following adoption by Council, the Policy will be widely communicated to Council staff and made available for public inspection as per sub-section (8) of the Local Government Act 1989.

As part of this recent review, in addition to accepting general feedback the Policy was issued to a number of key user Departments including Projects and Strategy, Parks and Infrastructure and Legal Services. Feedback from those Departments has been included.

## **6. Financial and resource implications**

Implementation of the Policy is funded from the Commercial and Property Services Department budget.

## **7. Governance issues**

Officers involved in the preparation of this report have no conflicts of interest.

The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

## **8. Social and environmental issues**

The revised Policy has made no changes to the current environmental consideration within its guidance.

The revised Policy maintains Council's commitment to the principles of social procurement, diversity and equal opportunity. Council continues to engage a not for profit provider to run the cafe at Camberwell Library Office Precinct. Further examples include Council placing FairTrade tea and coffee in Council facilities, partnering with youth traineeship organisations such as MEGT, leasing to VATMI to occupy part of the Kew Court House and placing investments with Bendigo Bank to generate an income stream for local Community Bank branches.

The pre-tender planning process also allows for consideration of social procurement opportunities for each public tender run.

For the three financial years 2016-17, 2017-18 and 2018-19 (to end of April 2019), Council paid approximately \$49M to local businesses with Boroondara postcodes. This represents approximately 13.4% of Council's total spend to all suppliers

## **9. Evaluation and review**

As required under section 186A (7) of the *Local Government Act 1989*, the Policy is required to be reviewed at least once each financial year. This is included in the Commercial and Property Services Department annual Business Plan.

## 10. Conclusion

It is recommended Council adopt the revised Procurement Policy, as detailed in **Attachment 1**. For ease of review a second version, **Attachment 2**, is also included. This version details all changes made to the current version.

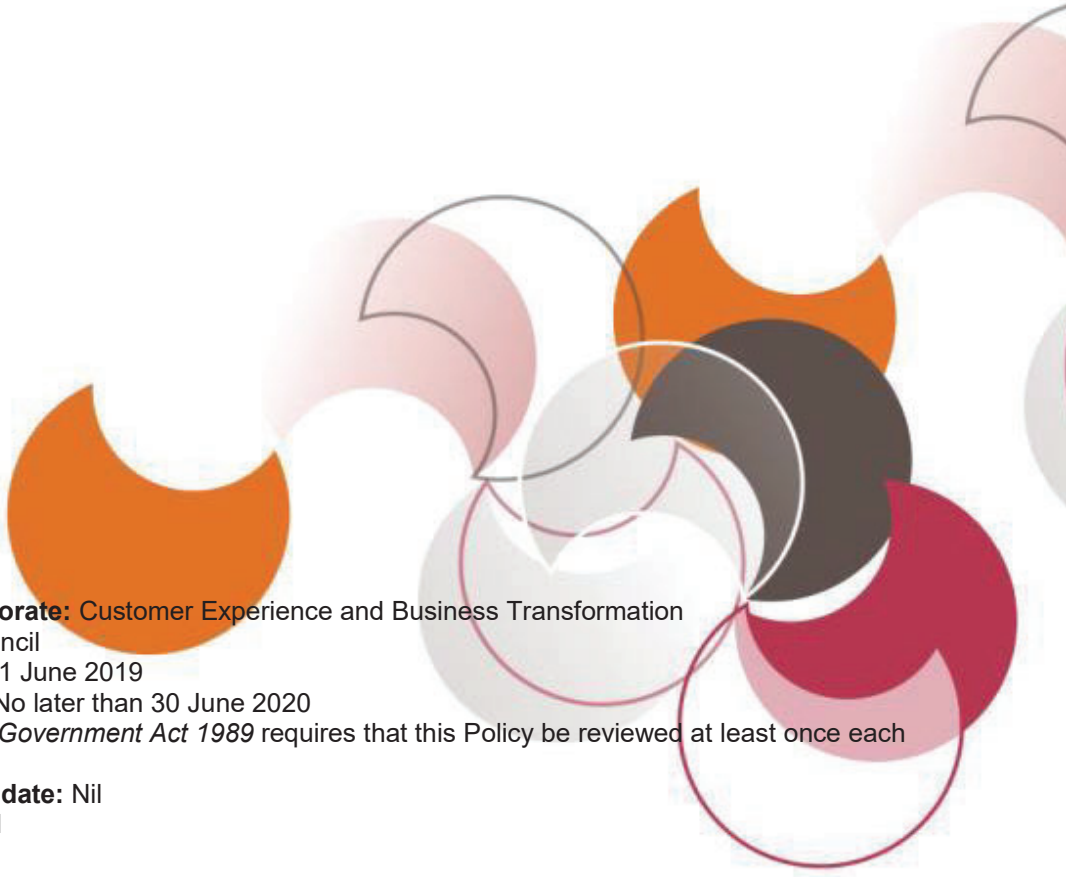
Once approved the “clean” version will be published on Council’s external website.

**Manager and  
Report officer:** Chris Hurley, Commercial and Property Services



# Procurement Policy

11 June 2019



**Responsible Directorate:** Customer Experience and Business Transformation  
**Authorised by:** Council  
**Date of adoption:** 11 June 2019  
**Next Review date:** No later than 30 June 2020  
(Note that the *Local Government Act 1989* requires that this Policy be reviewed at least once each financial year)  
**Revocation/sunset date:** Nil  
**Policy type:** Council

---

Procurement Policy  
11 June 2019 Revision 11



## Table of Contents

<b>FOREWORD</b>	iii
<b>1 PRINCIPLES</b>	<b>1</b>
1.1 Background	1
1.2 Purpose	2
1.3 Scope	2
1.4 Treatment of GST	3
1.5 Definitions and abbreviations	3
<b>2 ETHICS AND PROBITY</b>	<b>4</b>
2.1 Requirement	4
2.2 Conduct of Councillors and Council staff	4
2.2.1 <i>General</i>	4
2.2.2 <i>Members of professional bodies</i>	5
2.2.3 <i>Reporting possible fraud and complaints</i>	5
2.3 Procurement processes	5
2.4 Probity practitioners	5
2.5 Conflict of interest	6
2.6 Openness and fairness	6
2.7 Accountability and transparency	7
2.8 Gifts and hospitality	7
2.9 Disclosure of information	7
<b>3 GOVERNANCE</b>	<b>8</b>
3.1 Structure	8
3.2 Standards	8
3.3 Integration with Council's Vision, strategies and policies	8
3.4 Best Value	9
3.4.1 <i>Requirement</i>	9
3.4.2 <i>Approach</i>	9
3.4.3 <i>Role of specifications</i>	10
3.4.4 <i>Contract management</i>	10
3.5 Methods	10
3.6 Management of Public Tender Submissions	11
3.7 Responsible financial management	12
3.8 Council staff responsibilities	12
<b>4 PROCUREMENT PROCESSES AND THRESHOLDS</b>	<b>13</b>
4.1 Process	13
4.1.1 <i>Strategic Procurement</i>	13
4.1.2 <i>Achieving Best Value</i>	13
4.1.3 <i>Probity</i>	13





4.1.4	<i>Accountability and transparency</i> .....	14
4.1.5	<i>Risk management</i> .....	14
4.2	Procurement thresholds .....	14
4.2.1	<i>Publicly advertised procurements</i> .....	14
4.2.2	<i>Other procurements</i> .....	15
4.2.3	<i>Pre- approval process - insufficient suppliers identified or urgent works</i> ..	16
4.2.4	<i>Use of Supplier Panels</i> .....	17
<b>5</b>	<b>LEASED ASSETS</b> .....	<b>18</b>
<b>6</b>	<b>PROCUREMENT AUTHORITY</b> .....	<b>19</b>
6.1	Requirement .....	19
6.2	Procurement authority limits .....	19
6.3	Delegations to CEO and ELT .....	19
6.4	Procurement authority statements .....	20
<b>7</b>	<b>INTERNAL CONTROLS</b> .....	<b>20</b>
<b>8</b>	<b>COMMERCIAL INFORMATION</b> .....	<b>20</b>
<b>9</b>	<b>RISK MANAGEMENT</b> .....	<b>20</b>
9.1	General .....	20
9.2	Supply by contract .....	21
9.3	Health and safety considerations .....	21
9.4	Contractual terms and conditions .....	22
9.4.1	<i>Use of other than Council's standard contractual terms and conditions</i> ....	22
<b>10</b>	<b>ENDORSEMENT</b> .....	<b>23</b>
<b>11</b>	<b>DISPUTE RESOLUTION</b> .....	<b>23</b>
<b>12</b>	<b>PERFORMANCE MEASURES AND CONTINUOUS IMPROVEMENT</b> .....	<b>23</b>
<b>13</b>	<b>CORPORATE SOCIAL RESPONSIBILITY</b> .....	<b>23</b>
<b>14</b>	<b>SOCIAL PROCUREMENT</b> .....	<b>24</b>
<b>15</b>	<b>SUSTAINABILITY</b> .....	<b>24</b>
15.1	General .....	24
15.2	Environmentally sustainable procurement .....	24
<b>16</b>	<b>DIVERSITY</b> .....	<b>26</b>
<b>17</b>	<b>SUPPORT OF LOCAL BUSINESS</b> .....	<b>26</b>
<b>18</b>	<b>CONTINUAL IMPROVEMENT</b> .....	<b>26</b>
<b>19</b>	<b>POLICY RESPONSIBLE OFFICER AND OTHER CONTACT DETAILS</b> .....	<b>26</b>
19.1	Other contact details .....	27



## Foreword

Council recognises the need to ensure its procurement practices achieve best practice principles including value for money, open and fair competition, accountability, risk management, probity and transparency.

It is important to note that Council's Procurement Policy is the foundation document in Council's procurement framework to guide day to day decision making to support the achievement of Council's objectives. This policy is further supported by a procedural framework and other relevant Council Policies (e.g. Conflict of Interest Policy, Gifts and Hospitality Policy, Contracts and Tendering Probity Policy, Purchasing Card Policy) to guide staff to effectively implement the principles in the Procurement Policy.

The Policy applies to all Council staff (including contractors and volunteers) and all other persons who are authorised by Council to undertake procurement on Council's behalf.

The City of Boroondara regularly reviews and updates its Procurement Policy and incorporates Boroondara City Council's requirements and objectives. It is revised annually in accordance with section 186A of the *Local Government Act 1989*.

**NOTE:** *This Procurement Policy replaces the earlier Procurement Policy adopted by Council on 25 June 2018.*

## 1 PRINCIPLES

### 1.1 Background

Boroondara City Council ("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 works by Council, will enhance achievement of Council objectives such as sustainable and social procurement; bottom-line cost savings; supporting local economies; achieving innovation; and better services for communities.
  - the elements of best practice applicable to local government procurement incorporate:
    - broad principles covering ethics, value for money, responsibilities and accountabilities;
    - guidelines giving effect to those principles;
    - a system of procurement authorisation limits (i.e. the authorisation of officers 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.
- Council's contracting, purchasing and contract management activities endeavour to:
  - support Council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate social responsibility;
  - achieve value for money and quality in the acquisition of goods, services and works by Council;
  - demonstrate that public money has been well spent;
  - be conducted, and be seen to be conducted, in an impartial, fair and ethical manner;
  - seek continual improvement including the embrace of innovative and technological initiatives such as electronic procurement processes to reduce activity cost; and
  - support business in the local community.

## 1.2 Purpose

The purpose of this Policy is to:

- provide policy and guidance to Council to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services or undertaking works.

## 1.3 Scope

This Procurement Policy is made under section 186A of the *Local Government Act 1989*. This section of the *Local Government Act 1989* requires Council to prepare, approve and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by Council.

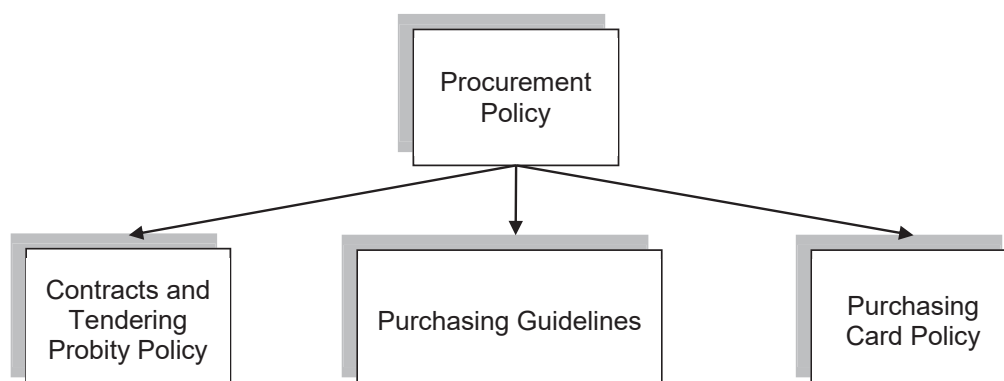
This Policy is an overarching policy that applies to all procurement activities conducted or overseen by Council and is binding upon Councillors, Council officers and temporary employees and consultants engaged by Council.

Under this Policy fall a number of other subordinate Council policies and guidelines that provide further specific detail relevant to their area. In particular, the following hierarchy should be noted where the:

- Contracts and Tendering Probity Policy provides guidance in respect of procurements that are considered high risk or which must be publicly tendered in accordance with section 186 (1) of the *Local Government Act 1989*<sup>1</sup>;
- Purchasing Guidelines provide guidance and general procedures for the raising of purchase orders; and
- Purchasing Card Policy provides guidance on the issue and use of purchasing cards by Council staff.

---

<sup>1</sup> Section 186(1) of the *Local Government Act 1989* requires public tenders where the value of the goods, services or works is equal to or greater than the designated threshold values. The current threshold values are \$150,000 for the purchase of goods/services and \$200,000 for the purchase of works. These amounts were fixed in an Order in Council dated 5 August 2008 in alignment with State Government threshold levels.



In addition to the above documents, a procedural Contract Management Manual is also available to assist Council staff in the administration and management of contracts and to ensure a consistent approach across Council to these activities.

Copies of these documents are available on Council's Intranet.

#### **1.4 Treatment of GST**

All monetary values stated in this Policy include GST except where specifically stated otherwise.

#### **1.5 Definitions and abbreviations**

<b>Term</b>	<b>Definition</b>
Act	<i>Local Government Act 1989</i>
Best Value (refer also section 3.4)	Best Value or value for money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors. Lowest price is not the sole determinant of Best Value.
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.
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, to provide value for money.
Council staff	Includes full-time and part-time Council officers, and temporary employees, contractors and consultants while engaged by Council.
Objective	Council's Electronic Document and Records Management System.
ELT	Council's Executive Leadership Team

<b>Term</b>	<b>Definition</b>
External consultant/contractor	An expert from outside Council who has been engaged to provide advice or assistance on a particular procurement and may include consultants/contractors with technical or other specialist expertise/knowledge, including probity practitioners.
Finance One	Council's corporate Finance system.
Probity	The dictionary definition of probity refers to uprightness, honesty, and integrity. Within government, the word "probity" is often used in a general sense to mean "good process" or "good governance". A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council's policies and legislation are established, understood and followed from the outset. These procedures are required to ensure ethical and responsible conduct and to maintain transparency. They also need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated fairly and equitably.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tender or quotation process	The generic process of inviting parties to submit a proposal, followed by the evaluation of submissions and selection of a successful respondent. Council's invitation to parties may include a simple quotation request or a more formal request for expressions of interest or tenders.

## **2 ETHICS AND PROBITY**

### **2.1 Requirement**

Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny.

### **2.2 Conduct of Councillors and Council staff**

#### **2.2.1 General**

Councillors and Council staff shall at all times conduct themselves in accordance with the Councillors Code of Conduct and the Code of Conduct for Staff, and in ways that are, and are seen to be, ethical and of the highest integrity and will:

- ensure fair, equitable, and unbiased treatment of all parties including potential and existing suppliers;
- use consistent and transparent processes;

- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all 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.

### **2.2.2 Members of professional bodies**

Councillors and Council staff belonging to professional organisations shall, 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.

### **2.2.3 Reporting possible fraud and complaints**

Council is committed to the aims and objectives of the *Protected Disclosure Act 2012* and does not tolerate improper conduct by employees, officers or contractors; or the taking of reprisals against those who come forward to disclose such conduct. Disclosures under the *Protected Disclosure Act 2012* that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment can be made to Council's Protected Disclosure Coordinator, the Chief Executive Officer, or directly to the Independent Broad-based Anti-corruption Commission (IBAC).

Other complaints or allegations of misconduct that do not fall within the *Protected Disclosure Act 2012* can be reported to STOPline, an independent organisation contracted by Council to receive such complaints, or be directed to Council's Protected Disclosure Coordinator or the Chief Executive Officer.

Any general complaints or concerns about the procurement process and procedures should be directed to the Manager Commercial and Property Services.

Refer contact details in section 19.1.

## **2.3 Procurement processes**

All procurement processes shall be conducted in accordance with the requirements of this Policy and any associated policies, procedures, relevant legislation, relevant Australian Standards and the Act.

## **2.4 Probity practitioners**

There may be circumstances where the use of an external probity practitioner would be appropriate. The decision as to the need for an external probity practitioner would normally be the responsibility of

the relevant Department Manager in consultation with the Manager Commercial and Property Services and be based on factors including:

- complexity of the procurement project;
- where the risk associated with the procurement process is considered very high;
- where the procurement project has the potential for risk to Council's reputation; or
- the specialist nature of any potential issues.

Where a decision is made to appoint an external probity practitioner it is recommended that the appointment be made as early as possible in the procurement process and a probity plan should be prepared and in place before the procurement is commenced.

## **2.5 Conflict of interest**

Councillors, Council staff and any external consultants/contractors engaged by Council shall at all time act in compliance with the conflict of interest requirements in the Act and the guidelines available from Local Government Victoria.

In particular, Councillors, Council staff and any external consultants/contractors shall:

- avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;
- 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 tendering or quoting for Council work; and
- note that the onus is on the individual involved being alert to and promptly declaring an actual or potential conflict of interest to Council.

Any actual or potential conflict of interest identified by Council staff and any external consultants/contractors as part of any procurement process must be declared to the Manager Commercial and Property Services on the Conflict of Interest Declaration form.

Councillors must disclose conflicts of interest at assemblies of Councillors and the records of assemblies must be reported to a Council meeting.

## **2.6 Openness and fairness**

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.

## **2.7 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 the processes by which all procurement activities are conducted will be in accordance with Council's procurement policies and procedures as set out in this Policy and related, relevant Council policies and procedures and all procurement activities are to provide for an audit trail for monitoring and reporting purposes.

## **2.8 Gifts and hospitality**

Councillors and Council staff must at all time act in accordance with relevant Acts, policies, guidelines and laws regarding gifts and hospitality.

One of the underlining principles of both Council's Councillors Acceptance of Gifts and Hospitality Guidelines and Council's Staff - Gifts and Benefits Policy is that no Councillor or member of Council staff shall seek or accept a gift, hospitality or other benefit if it is likely to be perceived by a 'reasonable person', as intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of their duties, by such an action now and in the future.

## **2.9 Disclosure of information**

Commercial in Confidence information received by Council must not be disclosed and is to be stored in a secure manner.

Councillors, Council staff and consultants/contractors engaged by Council are to protect information disclosed by organisations by refusing to release or discuss the following:

- any information that is Commercial in Confidence information; and
- pre-contract information including but not limited to information provided in tenders and quotations or subsequently provided in pre-contract negotiations.

Councillors, Council staff and consultants/contractors are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with potential suppliers during tender or quotation evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

At no stage, other than authorised pre-contract negotiations, 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.

### 3 GOVERNANCE

#### 3.1 Structure

Council shall:

- establish a procurement management responsibility structure and a system of procurement authorisation limits ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by Council;
- ensure that Council's procurement structure:
  - is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
  - affords prospective contractors and suppliers an equal opportunity to tender or quote; and
  - encourages competition.

#### 3.2 Standards

Council's procurement activities shall be carried out to the professional standards required by best practice and, where relevant, in compliance with:

- the Act;
- Council's policies such as but not limited to this Procurement Policy, the Contracts and Tendering Probity Policy and Purchasing Card Policy;
- Council's procedures such as but not limited to the Purchasing Guidelines and Contract Management Manual;
- Council's codes of behaviour such as but not limited to the Code of Conduct, Code of Ethics and Gifts and Hospitality policies;
- Victorian Local Government Best Practice Procurement Guidelines; and
- other legislative requirements such as but not limited to the Competition and Consumer Act, Goods Act, Charter of Human Rights and Responsibilities Act, and the Environmental Protection Act.

#### 3.3 Integration with Council's Vision, strategies and policies

Council's procurement strategy shall support its corporate Vision, strategies and policies, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community.

In particular, Council's Vision is one of "A vibrant and inclusive city, meeting the needs and aspirations of its community" which it aims to achieve through its core values of:

- think customer experience;
- act with integrity;
- work together as one;
- own it, follow through;
- explore better ways and
- treat people with respect.

Council will live these values by displaying strong leadership as it supports the community focus on enterprise and wellbeing.

### **3.4 Best Value**

#### **3.4.1 Requirement**

Council's procurement activities will be carried out on the basis of obtaining value for money consistent with acceptable quality, reliability and delivery considerations.

Lowest price is not the sole determinant of Best Value. Best Value in Council procurement is about selecting the supply of goods, services and works 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, social and environmental 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 works.

#### **3.4.2 Approach**

The Best Value 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 where appropriate;
- identifying and rectifying inefficiencies in procurement processes;

- developing cost efficient procurement processes including 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 works being acquired.

### **3.4.3 Role of specifications**

Specifications used in tenders and quotations and to be incorporated into contracts are to support and contribute to Council's Best Value objectives through being written in a manner that:

- clearly describes what Council wishes to procure;
- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability; and
- eliminates unnecessarily stringent requirements

### **3.4.4 Contract management**

The purpose of contract management is to ensure that Council, and where applicable its clients, receive the goods, services or works 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 adopted Risk Management Strategy and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

Contracts are to be proactively managed in accordance with the contract requirements by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure Council receives Best Value.

Council's Contract Management Manual is available on Council's Intranet. The manual provides guidance and assistance to Council staff in the administration and management of contracts and aims to ensure a consistent approach across Council to these activities.

## **3.5 Methods**

Depending on the value of the purchase and the risk associated with the procurement, Council's standard methods for purchasing goods, services and works are as follows;

- purchasing card;
- purchase order following a tender or quotation process from suppliers for goods or services that represent Best Value under directed procurement thresholds;
- in accordance with a formal contract entered into following a tender or quotation process;
- using aggregated purchasing arrangements with other councils, Victorian State Government (e.g. State Purchase Contracts, Whole-of-Government contracts), Procurement Australia, MAV Procurement, or other bodies; or
- other arrangements authorised by Council or the Chief Executive Officer (CEO) on an as needs basis, such as emergencies.

Council may, at its discretion and based on the complexity and cost of the project, conduct a one stage or multi-stage procurement process.

For example, a multi-stage procurement process would typically commence with an Expression of Interest (EOI) followed by a Request for Tender process involving the organisations short listed as a consequence of the EOI.

Expressions of Interest (EOI) may be appropriate where:

- Council wishes to consider ahead of formal tender processes such issues as whether those suppliers likely to tender possess the necessary technical, managerial and financial resources to successfully complete the project; the requirement is complex, difficult to define, unknown or unclear;
- the requirement is capable of several technical solutions;
- tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense;
- it is necessary to pre-qualify suppliers and goods to meet defined standards; or
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

### **3.6 Management of Public Tender Submissions**

Council will, when a public tender is conducted:

- Provide a secure facility to receive electronic submissions for tenders;
- Allocate responsibility for managing the facility to a business unit in the organisation;
- Implement a process to inform suppliers of successfully receiving their submission;
- Apply procedures in relation to late submissions that accord with the following protocols:
  - Late submissions are not to be accepted unless the supplier can clearly document to the satisfaction of the Manager, Commercial and Property Services a technical issue with the software Council mandates to be used to lodge submissions has caused the submission to be late; and

- The Manager, Commercial and Property Services must also be satisfied that accepting a late submission would not compromise the integrity of the market approach.
- The Manager Commercial and Property Services may also seek advice from an external probity advisor as required.

### **3.7 Responsible financial management**

The principle of responsible financial management shall be applied to all procurement activities.

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

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

Council seeks to improve its performance by capturing and analysing procurement financial information with an aim to:

- reduce transaction costs;
- make processes more efficient;
- improve management information and visibility of spend;
- increase control and consistency of processes; and
- improve spend compliance.

### **3.8 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 activities. For example,

- Council staff must not authorise the expenditure of funds in excess of their procurement authority limit;
- Council staff must not authorise or write multiple purchase orders to avoid the authorisation process requirements or their procurement authority;
- Council staff must not approve expenditure that relates to them personally and 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 at the point where the commitment to purchase goods, services or works has been made i.e. a purchase order must be raised in Finance One when the goods, services or works are ordered and not when the invoice is received; and

- expenditure must be recorded in a timely manner i.e. once the services or works have been completed, or the goods have been received, the appropriate Council officer must ensure that the correct amount is delivered against the relevant purchase order in Finance One.

## **4 PROCUREMENT PROCESSES AND THRESHOLDS**

### **4.1 Process**

Council's procurement processes shall be based on a number of principles as follows:

#### **4.1.1 Strategic Procurement**

Council's procurement processes will be based on the principles of Strategic Procurement. Planning for an individual procurement exercise will include consideration of aggregation opportunities, access to suppliers under existing contracts and analysis of alternative contract models. Guidance, and procurement planning templates, are available from the Commercial and Property Services Department.

#### **4.1.2 Achieving Best Value**

The benefits of the procurement are weighed against the costs necessary for the optimum result for Council and the local community. While Council is not required to accept the lowest price, it is required to take into account issues of quality, cost, accessibility of the service and other factors relevant to both the overall objectives and the Act.

Best Value may not mean the lowest price. In terms of the contracting process, Best Value requires Council to apply appropriate weighting for quality and price with as much transparency as is reasonably achievable. In this context price should take into account the whole life cost of the provision as far as is practicable.

In particular, unless otherwise approved by 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 40% as part of the evaluation criteria.

It follows that the delivery of Best Value is dependent on Council's priorities.

Achieving Best Value also requires challenging the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, comparing service provision options against all those available, consulting with key stakeholders and ensuring competition in the open market.

Achieving Best Value shall be the basis of all procurement decisions within Council.

#### **4.1.3 Probity**

All Council procurement processes shall be conducted in a fair, honest, open manner with the highest levels of integrity and in the public interest. All suppliers are to be treated fairly in an open and transparent manner (refer also section 2.6).

#### 4.1.4 Accountability and transparency

All Council procurement decisions must be justifiable and demonstrate that a fair, reasonable and transparent process has been followed (refer also section 2.7).

#### 4.1.5 Risk management

Council shall have in place consistent strategies for managing risks associated with all procurement processes.

### 4.2 Procurement thresholds

Guidelines will be determined from time to time for minimum spend thresholds associated with Council's procurement activities. These will be decided by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

#### 4.2.1 Publicly advertised procurements

The procurement of all goods, services or works with an estimated value equal to or greater than the designated thresholds contained in the Act<sup>2</sup> must be undertaken in a manner to ensure compliance with the Act. These thresholds may be varied by the Minister at any time. The thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term, and are to be inclusive of GST.

The options for a procurement process compliant with the public tendering requirements contained in the Act include:

- Council running its own publicly advertised tender process;
- Council participating in collaborative tender processes for similar services in conjunction with other councils, including councils in local procurement networks;
- Council appointing an external agent to run a tender process on its behalf. Organisations such as Procurement Australia and MAV (Municipal Association of Victoria) Procurement are active in this area;
- Council accessing Victorian State Government contracts (eg. State Purchase Contracts, Whole-of-Government contracts) that have been made available to Local Government and which Local Government can access without the need to comply with the requirements of Section 186 (1) of the Act; or
- Council accessing contracts for panels of suppliers where those panels have been put in place through a compliant tender process. For example, these panel contracts may have been put in place through a Council run tender process, a tender process run for Council by an external agent or be a Victorian State Government panel made available to Local Government.

However, should the nature of the requirement and the characteristics of the market be such that it is considered a public tender process would lead to a better result for Council, public tenders may also

---

<sup>2</sup> Section 186(1) of the *Local Government Act 1989*. Current thresholds are \$150,000 for the purchase of goods/services and \$200,000 for the purchase of works. These amounts were fixed in an Order in Council dated 5 August 2008 in alignment with State Government threshold levels.



be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

#### 4.2.2 Other procurements

The procurement of goods, services or works with an estimated value less than the designated thresholds contained in the Act <sup>2</sup> may be undertaken using the following procurement methods. As above, these thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term, and are to be inclusive of GST.

When the required number of quotes for any of the purchase values below is sought but not obtained, this information must be documented as part of the evaluation approval process. If it is considered the quote/s obtained represent Best Value, the procurement may proceed with approval by the relevant staff member with the commensurate procurement authority limit.

- Goods, services or works with a value up to \$3,000.

Generally, low risk and low value purchases up to \$3,000 can be procured without the need for a prior written quotation.

If a written quotation(s) is obtained the details should be recorded in Objective before placing an order.

- Goods, services or works with a value between \$3,001 and \$10,000.

Generally, procurements in this value range should be subject to a competitive process to ensure that Council can demonstrate it has achieved Best Value. Other than as noted in section 4.2.3, at least two written quotations should be sought before placing an order with the quotation details recorded in Objective.

Officers should use best endeavours to ensure that the likely value of the works is known and agreed with the contractor before any commitment to proceed and written estimates or fee proposals obtained for these one-off, minor, low risk assignments are to be recorded in Objective. In addition, the reasons behind the procurement approach adopted are to be documented, approved by the relevant staff member with the commensurate procurement authority limit and recorded in Objective and as part of the Purchase Order details in Finance One.

- Goods, services or works with a value between \$10,001 and \$50,000.

Other than as noted in section 4.2.3, Council will seek a minimum of three written quotations by issuing a written Request for Quotation.

Details of all suppliers contacted and their quotations must be recorded (for example, on a spreadsheet or similar document) and be maintained in Objective.

- Goods or services with a value between \$50,001 and \$149,999 or Works with a value between \$50,001 and \$199,999.

Other than as noted in section 4.2.3, Council will seek a minimum of three and preferably up to five written quotations by issuing a written Request for Quotation.

Public advertising is not required. However, where the estimated value of the goods, services or works approaches the thresholds contained in the Act and it is reasonably foreseeable that the total value of the contract may increase due to, for example, variations, Council staff should consider running a publicly advertised process in the first instance.

Quotations returned by the nominated closing date and time must be evaluated by an evaluation panel of no less than two people and a written evaluation report must be completed. 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 procurement authority limit. Guidance on the preparation of a written evaluation report can be obtained from Council's Procurement team, Commercial and Property Services Department.

The evaluation and recommendation document including the original suppliers' quotations and the evidence of formal approval and sign-off must be maintained in Objective.

- Public advertising.

In addition to the above methods, quotations may be advertised at the Council staff member's discretion. This may occur when potential respondents have not been established, an innovative approach is required, the estimated value of the contract is approaching the thresholds contained in the Act or the project has broad appeal that may attract keen prices.

- Quotations Module in Finance One

Council's Finance system includes a module, called Quotations, which links in with current processes and provides staff with an easy to follow process for seeking quotes that ensures compliance with the procurement requirements detailed in this section 4.2.2.

The Quotations module also provides a centralised system to document and record quotes sought and received and easy access to historical information and quotes in Finance One via Objective. The successful quote is automatically converted to a requisition in Finance One with minimal extra input required.

- Review of Procurement Activities

Further to section 3.7, Council's Commercial and Property Services Department undertakes regular checks of procurement activities across the organisation to review compliance with this section 4.2.2 and provide improved management information and visibility of spend, and increased control and consistency of procurement processes. Further, procurement activities are at all times subject to review through Council's audit processes (both internal and external) and fraud control processes (Council's Fraud and Corruption Control Policy).

#### **4.2.3 Pre- approval process - insufficient suppliers identified or urgent works.**

Circumstances may exist where, in advance of a procurement with an estimated value less than the designated thresholds contained in the Act, Officers consider the required number of quotations stipulated in section 4.2.2 above cannot be practically obtained. These circumstances may arise where, for example:

- existing technology and systems restrict the ability of other market participants to provide quotations, for example for software licensing or maintenance costs specific to one provider
- analysis and pre-planning has identified only a limited number of market participants able to meet Council's needs
- urgent works are required to be undertaken or urgent technical advice sought
- a contractor has undertaken previous related works and holds materials, specific knowledge or specialist equipment relating to the required works

Any decision to initiate a procurement acknowledging Council will not be able to obtain the number of quotations in section 4.2.2 must be approved in advance as follows and recorded in Objective, giving regard to the need for the procurement to represent Best Value:

- Procurements < \$50,000 - pre-approval by the relevant staff member with the commensurate procurement authority limit
- Procurement > \$50,000 - pre-approval by the relevant Director.

The pre-approval only covers the market engagement phase of the procurement and does not negate the need to complete a proper evaluation followed by the appropriate financial approval prior to engaging the supplier.

#### **4.2.4 Use of Supplier Panels**

As documented in the Victorian Local Government Best Practice Procurement Guidelines, the appointment of a panel of suppliers can be used to promote security of supply. As set out in section 4.2.1, panels can be put in place through a number of different processes including Council running its own tender process, a tender process run for Council by an external agent or Council having access to a Victorian State Government panel.

The use of supplier panels should be transparent as suppliers appointed to the panel will have a reasonable expectation that Council will provide panel members with an equal opportunity to quote for goods, services or works.

Where practicable, when accessing supplier panel arrangements quotations should be sought consistent with the guidelines set out in section 4.2.2 to ensure that any procurement through panels demonstrates value for money and a competitive process. In addition, if procurement exceeds the thresholds contained in the Act (refer section 4.2.1) then, as a minimum, the quotations should be sought consistent with the guidelines set out in section 4.2.2 for goods or services with a value between \$50,001 and \$149,999 or works with a value between \$50,001 and \$199,999. Some

external panels such as the Victorian State Government Construction Suppliers Register also have specific conditions of use that dictate, among other things, the numbers of quotes that must be sought from contractors pre-qualified on the Register. Such requirements must be complied with at all times.

Council officers responsible for the contract management of panel arrangements should be cognisant of day-to-day practicalities and acknowledge that a competitive public process and a value for money assessment has already been undertaken to establish the panel in the first instance. Accordingly, there may be situations where no further benefit is obtained from seeking quotations from the panel. For example,

- small, every-day, low risk, low value works such as those from trade services providers like electricians, plumbers; or
- where the contract with each individual panel supplier includes a comprehensive schedule of rates covering all expected work item types so the costs for packages of work can be accurately determined beforehand by the Council officer without the need for further quotations.

In the above examples, it may be appropriate for the Council officer to allocate work across the individual panel suppliers on the basis of their respective skill sets and capacity at the time to meet Council's required timeframes.

Where the Council officer believes that no further benefit or value will be achieved through seeking quotations from panel members, the approach to be adopted must be approved beforehand by the staff member with the commensurate procurement authority limit. A written record of the approach and the approval must be maintained in Objective.

## **5 LEASED ASSETS**

Council will at all times maintain a register of current leased assets. This register will be the responsibility of the Manager Commercial and Property Services and will be forwarded to Governance Department on a monthly basis.

As new asset leasing arrangements are entered into the relevant Department Manager is required to provide a list of the new assets to the Manager Commercial and Property Services including salient details of the assets and the associated lease. Further, the Department Manager must also ensure that a copy of the associated lease agreement is filed in Objective to ensure that an accurate up-to-date central record of lease agreements is available at all times.

Execution of lease agreements is subject to Council's procurement authority requirements (refer section 6). However, the approval process for lease agreements also requires that they be signed off by the Manager Commercial and Property Services prior to execution.

## **6 PROCUREMENT AUTHORITY**

### **6.1 Requirement**

Procurement authority refers to the limitations within which a Council officer is permitted to procure goods, services or works on behalf of Council.

The preparation, acceptance (and execution of associated documentation) of tenders, quotations, contracts, purchase orders or purchasing card transactions resulting in the expenditure of funds for the purchase of goods, services or works must only be authorised in accordance with the respective Council officer's procurement authority limit. Any agreed variations to an established contract that result in additional expenditure of funds must also only be authorised in accordance with the officer's procurement authority limit.

A Council officer should only authorise the procurement of goods, services or works where the value of the procurement is within their procurement authority limit and the officer is comfortable and familiar with the type of procurement being managed. If the procurement involves Council taking on a risk or accepting a liability that goes beyond those expressed in Council's standard contract terms and conditions, then the matter should be referred to the appropriate Manager or Director for approval and/or execution. A Council officer must not hesitate in referring the matter to their Manager or Director if the officer has any doubts or concerns about the terms of the procurement.

Council shall maintain a documented scheme of procurement authority limits identifying those Council staff authorised to make procurement commitments in respect of goods, services or works on behalf of Council and their respective expenditure commitment limits.

### **6.2 Procurement authority limits**

Procurement authority limits are defined by reference to Council's Instrument of Delegation to the CEO, the CEO's instruments of sub delegation to members of Council staff, or to Procurement Authority Statements.

Procurement authority limits enable Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency, integrity and accountability. Procurement authority limits also provide confidence to Council and the public that procurement activities are dealt with at the appropriate level.

A register of procurement authority limits will be maintained by the Finance One System Administrator in Information Technology Department.

### **6.3 Delegations to CEO and ELT**

Council has delegated certain functions and approvals to the CEO and Council's Instrument of Delegation to the CEO includes specific limitations on the CEO's authority to approve certain purchases, tender, quotation and contractual processes without prior referral to Council.

The limitations are reflected in the CEO's sub-delegations to members of ELT and these delegations, together with this Policy, set out the procurement authority limits of the CEO and ELT.

The instruments of delegation to the CEO and ELT are reviewed regularly and updated as required.

#### **6.4 Procurement authority statements**

Notwithstanding section 6.3, authorisation to expend funds or approve expenditure (whether by purchasing card, purchase order, manual payment requisition, petty cash or otherwise) is approved by the Council staff member's respective Manager and/or Director (depending on the staff member's level in the organisation) and authorised by the Chief Financial Officer.

Council staff, other than the CEO and ELT, who apply for access to Council's corporate purchasing system or a purchasing card, will receive a Procurement Authority Statement which clearly outlines the extent of their authority to make procurement commitments in respect of goods, services or works on behalf of Council. Procurement Authority Statements will be issued by the Commercial and Property Services Department, normally as part of the initial financial systems training provided to new staff.

## **7 INTERNAL CONTROLS**

Council will install and maintain a framework of internal controls over procurement processes, including regular internal audit review, which will ensure:

- more than one person is involved in and responsible for a transaction end to end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

## **8 COMMERCIAL INFORMATION**

Procurement activities 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.

## **9 RISK MANAGEMENT**

### **9.1 General**

Risk Management is to be appropriately applied at all stages of procurement activities 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 works.

## **9.2 Supply by contract**

The provision of goods, services and works by contract potentially exposes Council to risk.

Council will minimise its risk exposure by measures such as:

- use of standard-form contracts where appropriate. Council's standard-form contracts are provided by Council's Legal Services Department. Initial enquiries regarding Council's current standard-form contracts should be directed to the Commercial and Property Services Department (refer section 9.4);
- ensuring contracts are updated where appropriate to include current, relevant clauses;
- use of or reference to relevant Australian Standards (or equivalent), where appropriate;
- referring specifications to relevant experts for review, where considered appropriate;
- evaluating and selecting contractors whose operations are aligned with Council's specified occupational health and safety standards and systems of work; and who are appropriately experienced, licensed, qualified and have the required levels of appropriate insurances (workers compensation, public liability, professional indemnity);
- requiring security deposits, where appropriate;
- requiring contractual agreement before allowing the commencement of work; and
- effectively managing the contract including monitoring and enforcing performance.

## **9.3 Health and safety considerations**

Council procurement shall consider associated health and safety risks associated with goods, works and services and these considerations shall include the following as appropriate:

- Council's policies, procedures and systems related to OH&S contractor management;
- the need to ensure the health and safety of employees, contractors, visitors and the public at all times during Council operations;
- evaluation and verification of health and safety documentation related to the goods, services or works to be procured. This documentation may include manufacturers' and/or suppliers' risk assessments, process safe work method statements, specified regulatory requirements, equipment service records, substance safety data sheets, and any other documentation required by Council as a result of associated risk assessments conducted..
- selection of contractors whose safe management systems and operations are suitably aligned with the determined risk rating and hazards associated with the goods, services and/or works to be procured; and
- effective management including monitoring of the contract.

## **9.4 Contractual terms and conditions**

All contractual relationships must be documented in writing and it is strongly recommended that these be based on Council's standard terms and conditions. These standard terms and conditions are written to protect Council's interests and ensure Council is not exposed to unacceptable risks.

Council has a number of different standard-form contracts to cover different types of procurement including annual supply services, construction, consultancy, information technology (IT) products. Typically these will be either contract documents provided by Council's Legal Services Department or contract documents licenced for use by Council from third party organisations. The latter instance would, for example, include the Australian Standard forms of construction contract.

To protect the interests of Council, contractual terms and conditions must be settled in advance of any commitment being made with a supplier. To facilitate this, Council's proposed contractual terms and conditions must be issued as part of any request for quotation or tender documentation to ensure that potential suppliers are fully aware of the contractual terms and conditions that will be the basis of any contractual relationship between the parties.

### **9.4.1 Use of other than Council's standard contractual terms and conditions**

It is recognised that there may be occasions when it is appropriate to consider changes to Council's standard terms and conditions or the use of a supplier's own standard terms and conditions. For example,

- where elements of Council's standard terms and conditions may not be well suited to a particular procurement or may be of major concern to a supplier;
- where Council's standard levels of insurance may not be commensurate with the scope of the work required; or
- use of a supplier's own standard terms and conditions for IT software based solutions including licensing agreements or equipment lease agreements where Council may rely on a leasing company's Master Lease Agreement.

Under these circumstances, Council staff may consider alternative terms and conditions provided that any such changes do not adversely impact Council's interests or expose Council to substantial or unacceptable risks. Use of alternative terms and conditions must be approved by the relevant Director. Any consideration must take into account issues including the nature of the specific work to be undertaken, an assessment of the possible risks to Council associated with that work and any possible flow-on consequences that may arise from the work. For example, faulty design work could have major consequences for subsequent construction work based on that design.

Council staff must not agree to any changed contractual terms and conditions without prior written approval of their Director. In seeking this approval, staff must undertake the above-mentioned assessment and, in the event that the Director supports accepting changed contractual terms and conditions, the assessment is to be documented and forwarded to the Manager Commercial and Property Services for review. The Manager Commercial and Property Services may recommend further assessment such as seeking specialist advice from risk management and/or Legal Services. The Director shall be responsible to undertake any additional assessment recommended.



In the event that there are differing opinions as to the acceptability of any proposed contractual terms and conditions or the level of assessment required, the final decision will rest with the Director in question.

## **10 ENDORSEMENT**

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to the relevant Director or CEO level for prior approval.

## **11 DISPUTE RESOLUTION**

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

## **12 PERFORMANCE MEASURES AND CONTINUOUS IMPROVEMENT**

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs may be benchmarked externally, where appropriate. Internal service standards may also be agreed within Council where appropriate and performance against these targets measured and reviewed regularly to support continuous improvement.

The performance measurements developed will be used to:

- highlight trend and exceptions where necessary to enhance performance;
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and
- facilitate programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

## **13 CORPORATE SOCIAL RESPONSIBILITY**

Corporate social responsibility is about taking positive action to demonstrate Council's commitment to the local community and the environment on which it impacts. Council aims to maximise the benefits of the services it provides across the community and minimise the negative aspects of its activities.

Council integrates corporate social responsibility into its organisational policies and practices through initiatives such as social procurement, sustainability and diversity.

## 14 SOCIAL PROCUREMENT

Social procurement involves using procurement processes and purchasing power to not only deliver efficient goods/services/works but also to generate positive social outcomes.

Council understands the benefits that social procurement can generate by building on initiatives already undertaken by Council in enhancing sustainable and strategic procurement practice, further enabling procurement to effectively contribute towards building stronger communities and meeting the social objectives of Council.

It is recognised that social procurement objectives may have other implications such as financial. Accordingly it is important that social procurement objectives are determined prior to the associated procurement to ensure they are appropriately considered during that procurement process.

Further details and examples of social procurement initiatives are available in the Local Government section of the Department of Transport, Planning and Local Infrastructure website at the following link: <http://www.dtpli.vic.gov.au/local-government/strengthening-councils/social-procurement>.

## 15 SUSTAINABILITY

### 15.1 General

Council is committed to reducing its environmental impacts and operating in a socially and environmentally sustainable manner. To work towards this, Council will monitor and report on Council activities and programs that have an impact on, or contribute to the environment. This includes but is not limited to:

- waste management;
- recycling;
- energy management;
- emissions management;
- water conservation;
- building design; and
- environmentally preferable procurement.

### 15.2 Environmentally sustainable procurement

Council is committed to adopting a green procurement approach by supporting the principles of sustainable procurement. Council prefers to purchase environmentally preferred products whenever they achieve an equivalent function. Assessment of Best Value includes consideration of the environmental impacts and credentials of goods, services and works. Within this context Council will therefore consider the following environmental sustainability criteria:

- Reduce, reuse, and recycle
    - avoid unnecessary purchase of goods, services or works through identifying ways to carry out a function or task without using materials that generate waste (e.g. sending information via email instead of paper) and checking stores and other Departments for excess goods.
    - select products that reduce the amount of materials required such as packaging and consumables.
    - seek to re-use items where possible and extend the useful life of products and equipment through maintenance and repair or re-allocation.
    - seek to buy recycled/part-recycled products that optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.
  - Minimise energy consumption and greenhouse gas emissions
    - select electrical and gas powered products which are energy efficient. For all product categories covered under the Australian Government's Equipment Energy Efficiency rating scheme (e.g. televisions, refrigerators, dishwashers, computers/monitors, air conditioners, washers/dryers) prefer products that are within one star of best available rating. Refer <http://www.energyrating.gov.au/>
    - select fuel efficient products (i.e. powered by petrol, diesel or bottled gas).
    - in addition to operational energy efficiency, consider the energy and water requirements of a product during its production, transportation and eventual disposal.
  - Minimise habitat destruction
    - purchase paper and wood products obtained from recycled, plantation, salvaged or renewable sources.
  - Minimise toxicity
    - purchase materials and products (e.g. Paints, cleaning products, herbicides, asphalt, building materials) that minimise or eliminate use or release of toxic substances that can affect human health and pollute water, land or air at any stage of their life cycle.
  - Minimise use of potable water
    - select products that conserve water or use water in an efficient way. For products covered under the Australian Government's Water Efficiency Labelling and Standards (WELS) scheme (e.g. Taps, toilets/urinals, dishwashers) prefer products that are within one star of best available. Refer <http://waterating.gov/>
  - Green the supply chain
-

- develop tender, quotation and contract specifications that encourage suppliers to adopt good environmental and management practices that also respect the rights of all employees and the local community.
- Use of Fairtrade products
  - where practicable, Council will procure certified products (eg. tea, coffee, chocolate, garments) which support farmers, their families and communities in developing nations in receiving more stable and secure incomes, better working conditions, and enhanced investment in quality and local environmental sustainability.

## **16 DIVERSITY**

Promoting equality through procurement can improve competition, value for money, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.

## **17 SUPPORT OF LOCAL BUSINESS**

Council supports buying goods and services from local business and/or business employing Boroondara residents. In assessing Best Value to be delivered by competing competitive offerings, all else being equal, Council will support such local businesses.

Council also acknowledges its obligations under s186 (6) of the Act to, whenever practicable, give preference to contracts for the purchase of goods and services manufactured or produced in Australia or New Zealand. In assessing Best Value to be delivered by competing competitive offerings, Council will support products supplied by Australian owned enterprises.

## **18 CONTINUAL IMPROVEMENT**

Council is committed to continuous improvement and will review this Procurement Policy both in accordance with the Act, and as necessary to ensure that it continues to meet its wider strategic objectives.

## **19 POLICY RESPONSIBLE OFFICER AND OTHER CONTACT DETAILS**

Manager Commercial and Property Services is the designated responsible officer of this Policy. The responsible officer coordinates the implementation, maintenance and review of this Policy and ensures that stakeholders are aware of their accountabilities.

For further information or queries or feedback on this Policy, please contact the above responsible officer via email [managercommercialpropertyservices@boroondara.vic.gov.au](mailto:managercommercialpropertyservices@boroondara.vic.gov.au) or telephone (03) 9278 4444.

### **19.1 Other contact details**

Other relevant contact details referred to in this Policy are as follows:

- Protected Disclosure Coordinator  
Manager Governance  
Telephone:(03) 9278 4444  
Email: [protecteddisclosure@boroondara.vic.gov.au](mailto:protecteddisclosure@boroondara.vic.gov.au)
- Chief Executive Officer  
Mail: Private Bag 1, Camberwell, Vic 3124
- STOPline  
Telephone: 1300 304 550  
Email: [Boroondara@stopline.com.au](mailto:Boroondara@stopline.com.au)  
Mail: City of Boroondara c/o The STOPline, Locked Bag 8, Hawthorn, Vic 3122
- Independent Broad-based Anti-corruption Commission (IBAC).  
Telephone: 1300 735 135  
Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)
- Manager Commercial and Property Services  
Telephone: (03) 9278 4444



# Procurement Policy

xx ~~26~~ June 20198

**Responsible Directorate:** ~~Customer Experience and Business Transformation~~ Corporate Services  
**Authorised by:** Council  
**Date of adoption:** ~~1125~~ June 20198  
**Next Review date:** No later than 30 June 202019  
 (Note that the *Local Government Act 1989* requires that this Policy be reviewed at least once each financial year)  
**Revocation/sunset date:** Nil  
**Policy type:** Council

Procurement Policy  
~~1125~~ June 20198 Revision 110



## Table of Contents

<b>FOREWORD</b>	iii
<b>1 PRINCIPLES</b>	<b>1</b>
1.1 Background	1
1.2 Purpose	22
1.3 Scope	22
1.4 Treatment of GST	33
1.5 Definitions and abbreviations	33
<b>2 ETHICS AND PROBITY</b>	<b>554</b>
2.1 Requirement	554
2.2 Conduct of Councillors and Council staff	554
2.2.1 General	554
2.2.2 Members of professional bodies	55
2.2.3 Reporting possible fraud and complaints	55
2.3 Procurement processes	665
2.4 Probity practitioners	665
2.5 Conflict of interest	66
2.6 Openness and fairness	776
2.7 Accountability and transparency	77
2.8 Gifts and hospitality	77
2.9 Disclosure of information	887
<b>3 GOVERNANCE</b>	<b>88</b>
3.1 Structure	88
3.2 Standards	88
3.3 Integration with Council's Vision, strategies and policies	998
3.4 Best Value	99
3.4.1 Requirement	99
3.4.2 Approach	10109
3.4.3 Role of specifications	1010
3.4.4 Contract management	111410
3.5 Methods	111410
3.6 Management of Public Tender Submissions	121211
3.7 Responsible financial management	1212
3.8 Council staff responsibilities	131312
<b>4 PROCUREMENT PROCESSES AND THRESHOLDS</b>	<b>1313</b>
4.1 Process	1313
4.1.1 Strategic Procurement	1313
4.1.2 Achieving Best Value	141413



4.1.3	<i>Probity</i> .....	141413
4.1.4	<i>Accountability and transparency</i> .....	1414
4.1.5	<i>Risk management</i> .....	1414
4.2	Procurement thresholds.....	1414
4.2.1	<i>Publicly advertised procurements</i> .....	151514
4.2.2	<i>Other procurements</i> .....	1515
4.2.3	<i>Pre- approval process - insufficient suppliers identified or urgent works</i> .181816	
4.2.4	<i>Use of Supplier Panels</i> .....	191917
<b>5</b>	<b>LEASED ASSETS</b> .....	<b>202018</b>
<b>6</b>	<b>PROCUREMENT AUTHORITY</b> .....	<b>202019</b>
6.1	Requirement.....	202019
6.2	Procurement authority limits .....	212119
6.3	Delegations to CEO and ELT .....	212119
6.4	Procurement authority statements.....	212120
<b>7</b>	<b>INTERNAL CONTROLS</b> .....	<b>212120</b>
<b>8</b>	<b>COMMERCIAL INFORMATION</b> .....	<b>222220</b>
<b>9</b>	<b>RISK MANAGEMENT</b> .....	<b>222220</b>
9.1	General.....	222220
9.2	Supply by contract.....	222221
9.3	Health and safety considerations.....	232321
9.4	Contractual terms and conditions .....	232322
9.4.1	<i>Use of other than Council's standard contractual terms and conditions</i> 242422	
<b>10</b>	<b>ENDORSEMENT</b> .....	<b>242423</b>
<b>11</b>	<b>DISPUTE RESOLUTION</b> .....	<b>242423</b>
<b>12</b>	<b>PERFORMANCE MEASURES AND CONTINUOUS IMPROVEMENT</b> .....	<b>252523</b>
<b>13</b>	<b>CORPORATE SOCIAL RESPONSIBILITY</b> .....	<b>252523</b>
<b>14</b>	<b>SOCIAL PROCUREMENT</b> .....	<b>252524</b>
<b>15</b>	<b>SUSTAINABILITY</b> .....	<b>262624</b>
15.1	General.....	262624
15.2	Environmentally sustainable procurement .....	262624
<b>16</b>	<b>DIVERSITY</b> .....	<b>272726</b>
<b>17</b>	<b>SUPPORT OF LOCAL BUSINESS</b> .....	<b>282826</b>
<b>18</b>	<b>CONTINUAL IMPROVEMENT</b> .....	<b>282826</b>
<b>19</b>	<b>POLICY RESPONSIBLE OFFICER AND OTHER CONTACT DETAILS</b> .....	<b>282826</b>





19.1 Other contact details .....	282827
<b>1 PRINCIPLES .....</b>	<b>1</b>
1.1 Background .....	1
1.2 Purpose .....	2
1.3 Scope .....	2
1.4 Treatment of GST .....	3
1.5 Definitions and abbreviations .....	3
<b>2 ETHICS AND PROBITY .....</b>	<b>4</b>
2.1 Requirement .....	4
2.2 Conduct of Councillors and Council staff .....	4
2.2.1 General .....	4
2.2.2 Members of professional bodies .....	5
2.2.3 Reporting possible fraud and complaints .....	5
2.3 Procurement processes .....	5
2.4 Probity practitioners .....	5
2.5 Conflict of interest .....	6
2.6 Openness and fairness .....	6
2.7 Accountability and transparency .....	7
2.8 Gifts and hospitality .....	7
2.9 Disclosure of information .....	7
<b>3 GOVERNANCE .....</b>	<b>8</b>
3.1 Structure .....	8
3.2 Standards .....	8
3.3 Integration with Council's Vision, strategies and policies .....	8
3.4 Best Value .....	9
3.4.1 Requirement .....	9
3.4.2 Approach .....	9
3.4.3 Role of specifications .....	10
3.4.4 Contract management .....	10
3.5 Methods .....	10
3.6 Management of Tenders, Quotes and Submissions received .....	11
3.7 Responsible financial management .....	12
3.8 Council staff responsibilities .....	12
<b>4 PROCUREMENT PROCESSES AND THRESHOLDS .....</b>	<b>13</b>
4.1 Process .....	13
4.1.1 Strategic Procurement .....	13
4.1.2 Achieving Best Value .....	13
4.1.3 Probity .....	14
4.1.4 Accountability and transparency .....	14
4.1.5 Risk management .....	14



4.2— Procurement thresholds .....	14
4.2.1— Publicly advertised procurements .....	14
4.2.2— Other procurements .....	15
4.2.3— Pre-approval process – insufficient suppliers identified or urgent works .....	17
4.2.4— Use of Supplier Panels .....	18
<b>5— LEASED ASSETS .....</b>	<b>19</b>
<b>6— PROCUREMENT AUTHORITY .....</b>	<b>20</b>
6.1— Requirement .....	20
6.2— Procurement authority limits .....	20
6.3— Delegations to CEO and ELT .....	20
6.4— Procurement authority statements .....	21
<b>7— INTERNAL CONTROLS .....</b>	<b>21</b>
<b>8— COMMERCIAL INFORMATION .....</b>	<b>21</b>
<b>9— RISK MANAGEMENT .....</b>	<b>21</b>
9.1— General .....	21
9.2— Supply by contract .....	22
9.3— Health and safety considerations .....	22
9.4— Contractual terms and conditions .....	23
9.4.1— Use of other than Council's standard contractual terms and conditions .....	23
<b>10— ENDORSEMENT .....</b>	<b>24</b>
<b>11— DISPUTE RESOLUTION .....</b>	<b>24</b>
<b>12— PERFORMANCE MEASURES AND CONTINUOUS IMPROVEMENT .....</b>	<b>24</b>
<b>13— CORPORATE SOCIAL RESPONSIBILITY .....</b>	<b>24</b>
<b>14— SOCIAL PROCUREMENT .....</b>	<b>25</b>
<b>15— SUSTAINABILITY .....</b>	<b>25</b>
15.1— General .....	25
15.2— Environmentally sustainable procurement .....	25
<b>16— DIVERSITY .....</b>	<b>27</b>
<b>17— SUPPORT OF LOCAL BUSINESS .....</b>	<b>27</b>
<b>18— CONTINUAL IMPROVEMENT .....</b>	<b>27</b>
<b>19— POLICY RESPONSIBLE OFFICER AND OTHER CONTACT DETAILS .....</b>	<b>27</b>
19.1— Other contact details .....	28



## Foreword

~~In November 2008, amendments to the *Local Government Act 1989* were passed which included a new Section 186A that required a council to prepare and approve a procurement policy, that a procurement policy must include any prescribed matter and that a council must have regard to Ministerial Guidelines made under the Section when preparing its policy. Further, a council must review its procurement policy annually and make it available for public inspection.~~

~~In response to the legislative amendments, the Municipal Association of Victoria (MAV) through its services arm, MAV Procurement, conducted workshops in 2009. As a result of these workshops MAV developed a model procurement policy in June 2009 for use by council members. In 2011 MAV Procurement surveyed councils to obtain feedback on the 2009 model procurement policy and MAV updated the model procurement policy.~~

Council recognises the need to ensure its procurement practices achieve best practice principles including value for money, open and fair competition, accountability, risk management, probity and transparency.

It is important to note that Council's Procurement Policy is the foundation document in Council's procurement framework to guide day to day decision making to support the achievement of Council's objectives. This policy is further supported by a procedural framework and other relevant Council Policies (e.g. Conflict of Interest Policy, Gifts and Hospitality Policy, Contracts and Tendering Probity Policy, Purchasing Card Policy) to guide staff to effectively implement the principles in the Procurement Policy.

The Policy applies to all Council staff (including contractors and volunteers) and all other persons who are authorised by Council to undertake procurement on Council's behalf.

The City of Boroondara regularly reviews and updates its Procurement Policy ~~is based on the updated August 2011 MAV model procurement policy~~ and incorporates Boroondara City Council's requirements and objectives. It is revised annually in accordance with section 186A of the *Local Government Act 1989*.

**NOTE:** This Procurement Policy replaces the earlier Procurement Policy adopted by Council on ~~25~~ June 201~~8~~~~7~~.

## 1 PRINCIPLES

### 1.1 Background

Boroondara City Council ("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 works by Council, will enhance achievement of Council objectives such as sustainable and social procurement; bottom-line cost savings; supporting local economies; achieving innovation; and better services for communities.
  - the elements of best practice applicable to local government procurement incorporate:
    - broad principles covering ethics, value for money, responsibilities and accountabilities;
    - guidelines giving effect to those principles;
    - a system of procurement authorisation limits (i.e. the authorisation of officers 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.
- Council's contracting, purchasing and contract management activities endeavour to:
  - support Council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate social responsibility;
  - achieve value for money and quality in the acquisition of goods, services and works by Council;
  - demonstrate that public money has been well spent;
  - be conducted, and be seen to be conducted, in an impartial, fair and ethical manner;
  - seek continual improvement including the embrace of innovative and technological initiatives such as electronic procurement processes to reduce activity cost; and
  - support business in the local community.

## 1.2 Purpose

The purpose of this Policy is to:

- provide policy and guidance to Council to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services or undertaking works.

## 1.3 Scope

This Procurement Policy is made under ~~s~~Section 186A of the *Local Government Act 1989*. This ~~s~~Section of the *Local Government Act 1989* requires Council to prepare, approve and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by Council.

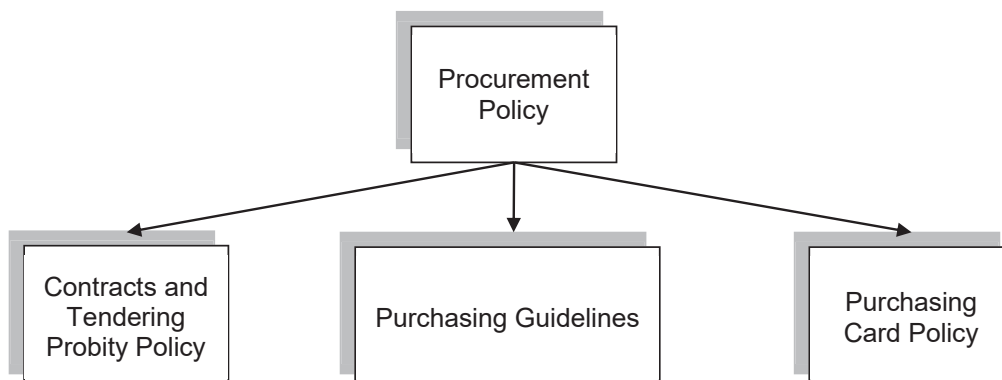
This Policy is an overarching policy that applies to all procurement activities conducted or overseen by Council and is binding upon Councillors, Council officers and temporary employees and consultants engaged by Council.

Under this Policy fall a number of other subordinate Council policies and guidelines that provide further specific detail relevant to their area. In particular, the following hierarchy should be noted where the:

- Contracts and Tendering Probity Policy provides guidance in respect of procurements that are considered high risk or which must be publicly tendered in accordance with ~~s~~Section 186 (1) of the *Local Government Act 1989*<sup>1</sup>;
- Purchasing Guidelines provide guidance and general procedures for the raising of purchase orders; and
- Purchasing Card Policy provides guidance on the issue and use of purchasing cards by Council staff.

---

<sup>1</sup> Section 186(1) of the *Local Government Act 1989* requires public tenders where the value of the goods, services or works is equal to or greater than the designated threshold values. The current threshold values are \$150,000 for the purchase of goods/services and \$200,000 for the purchase of works. These amounts were fixed in an Order in Council dated 5 August 2008 in alignment with State Government threshold levels.



In addition to the above documents, a procedural Contract Management Manual is also available to assist Council staff in the administration and management of contracts and to ensure a consistent approach across Council to these activities.

Copies of these documents are available on Council's Intranet.

**1.4 Purpose**

The purpose of this Policy is to:

- provide policy and guidance to Council to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services or undertaking works.

**1.51.4 Treatment of GST**

All monetary values stated in this Policy include GST except where specifically stated otherwise.

**1.61.5 Definitions and abbreviations**

Term	Definition
Act	Local Government Act 1989
Best Value (refer also section 3.4)	Best Value or value for money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors. Lowest price is not the sole determinant of Best Value.

Term	Definition
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.
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, to provide value for money.
Council staff	Includes full-time and part-time Council officers, and temporary employees, contractors and consultants while engaged by Council.
<u>ObjectiveEDRMS</u>	Council's Electronic Document and Records Management System.
ELT	Council's Executive Leadership Team
External <u>procurement consultant/contractor</u>	An expert from outside Council who has been engaged to provide advice or assistance on a particular procurement and may include consultants/ <u>contractors</u> with technical or other specialist expertise/knowledge, <u>including</u> probity practitioners.
Finance One	Council's corporate Finance system.
Probity	The dictionary definition of probity refers to uprightness, honesty, and integrity. Within government, the word "probity" is often used in a general sense to mean "good process" or "good governance". A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council's policies and legislation are established, understood and followed from the outset. These procedures are required to ensure ethical and responsible conduct and to maintain transparency. They also need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated fairly and equitably.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tender or quotation process	The generic process of inviting parties to submit a proposal, followed by the evaluation of submissions and selection of a successful respondent. Council's invitation to parties may include a simple quotation request or a more formal request for expressions of interest or tenders.

## 2 ETHICS AND PROBITY

### 2.1 Requirement

Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny.

### 2.2 Conduct of Councillors and Council staff

#### 2.2.1 General

Councillors and Council staff shall at all times conduct themselves in accordance with the Councillors Code of Conduct and the Code of Conduct for Staff, and in ways that are, and are seen to be, ethical and of the highest integrity and will:

- ensure fair, equitable, and unbiased treatment of all parties including potential and existing suppliers;
- 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 that does not allow conflicts of interest;
- provide all 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.

#### 2.2.2 Members of professional bodies

Councillors and Council staff belonging to professional organisations shall, 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.

#### 2.2.3 Reporting possible fraud and complaints

Council is committed to the aims and objectives of the *Protected Disclosure Act 2012* and does not tolerate improper conduct by employees, officers or contractors; or the taking of reprisals against those who come forward to disclose such conduct. Disclosures under the *Protected Disclosure Act 2012* that reveal corrupt conduct, conduct involving a substantial mismanagement of public



resources, or conduct involving a substantial risk to public health and safety or the environment can be made to Council's Protected Disclosure Coordinator, the Chief Executive Officer, or directly to the Independent Broad-based Anti-corruption Commission (IBAC).

Other complaints or allegations of misconduct that do not fall within the *Protected Disclosure Act 2012* can be reported to STOPline, an independent organisation contracted by Council to receive such complaints, or be directed to Council's Protected Disclosure Coordinator or the Chief Executive Officer.

Any general complaints or concerns about the procurement process and procedures should be directed to the Manager Commercial and Property Services.

Refer contact details in section 19.1.

### **2.3 Procurement processes**

All procurement processes shall be conducted in accordance with the requirements of this Policy and any associated policies, procedures, relevant legislation, relevant Australian Standards and the Act.

### **2.4 Probity practitioners**

There may be circumstances where the use of an external probity practitioner would be appropriate. The decision as to the need for an external probity practitioner would normally be the responsibility of the relevant Department Manager in consultation with the Manager Commercial and Property Services and be based on factors including:

- complexity of the procurement project;
- where the risk associated with the procurement process is considered very high;
- where the procurement project has the potential for risk to Council's reputation; or
- the specialist nature of any potential issues.

Where a decision is made to appoint an external probity practitioner it is recommended that the appointment be made as early as possible in the procurement process and a probity plan should be prepared and in place before the procurement is commenced.

### **2.5 Conflict of interest**

Councillors, Council staff and any external ~~procurement~~ consultants/contractors engaged by Council shall at all times act in compliance with the conflict of interest requirements in the Act and the guidelines available from Local Government Victoria.

In particular, Councillors, Council staff and any external ~~procurement~~ consultants/contractors shall:

- avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties;

- 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 tendering or quoting for Council work; and
- note that the onus is on the individual involved being alert to and promptly declaring an actual or potential conflict of interest to Council.

Any actual or potential conflict of interest identified by Council staff and any external **procurement** consultants/**contractors** as part of any procurement process must be declared to the Manager Commercial and Property Services on the Conflict of Interest Declaration form.

Councillors must disclose conflicts of interest at assemblies of Councillors and the records of assemblies must be reported to a Council meeting.

## **2.6 -Openness and fairness**

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.

## **2.7 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 the processes by which all procurement activities are conducted will be in accordance with Council's procurement policies and procedures as set out in this Policy and related, relevant Council policies and procedures and all procurement activities are to provide for an audit trail for monitoring and reporting purposes.

## **2.8 Gifts and hospitality**

Councillors and Council staff must at all time act in accordance with relevant Acts, policies, guidelines and laws regarding gifts and hospitality.

One of the underlining principles of both Council's Councillors Acceptance of Gifts and Hospitality Guidelines and Council's Staff - Gifts and Benefits Policy is that no Councillor or member of Council staff shall seek or accept a gift, hospitality or other benefit if it is likely to be perceived by a 'reasonable person', as intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of their duties, by such an action now and in the future.

## 2.9 Disclosure of information

Commercial in Confidence information received by Council must not be disclosed and is to be stored in a secure manner.

Councillors, ~~and~~ Council staff and consultants/contractors engaged by Council are to protect information disclosed by organisations by refusing to release or discuss the following:

- any information that is Commercial in Confidence information; and
- pre-contract information including but not limited to information provided in tenders and quotations or subsequently provided in pre-contract negotiations.

Councillors, ~~and~~ Council staff and consultants/contractors are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with potential suppliers during tender or quotation evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

At no stage, other than authorised pre-contract negotiations-should, 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.

## 3 GOVERNANCE

### 3.1 Structure

Council shall:

- establish a procurement management responsibility structure and a system of procurement authorisation limits ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by Council;
- ensure that Council's procurement structure:
  - is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
  - affords prospective contractors and suppliers an equal opportunity to tender or quote; and
  - encourages competition.

### 3.2 Standards

Council's procurement activities shall be carried out to the professional standards required by best practice and, where relevant, in compliance with:

- the Act;
- Council's policies such as but not limited to this Procurement Policy, the Contracts and Tendering Probity Policy and Purchasing Card Policy;
- Council's procedures such as but not limited to the Purchasing Guidelines and Contract Management Manual;
- Council's codes of behaviour such as but not limited to the Code of Conduct, Code of Ethics and Gifts and Hospitality policies;
- Victorian Local Government Best Practice Procurement Guidelines; and
- other legislative requirements such as but not limited to the Competition and Consumer Act, Goods Act, Charter of Human Rights and Responsibilities Act, and the Environmental Protection Act.

### 3.3 Integration with Council's Vision, strategies and policies

Council's procurement strategy shall support its corporate Vision, strategies and policies, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community.

In particular, Council's Vision is one of "A vibrant and inclusive ~~community with an outstanding quality of life city, meeting the needs and aspirations of its "community"~~ which it aims to achieve through its core values of:

- ~~think customer experience;~~
- ~~act with~~ integrity;
- ~~work together as one~~collaboration;
- ~~own it, follow through~~accountability;
- ~~explore better ways~~innovation; and
- ~~treat people with~~ respect.-

Council will live these values by displaying strong leadership as it supports the community focus on enterprise and wellbeing.

### 3.4 Best Value

#### 3.4.1 Requirement

Council's procurement activities will be carried out on the basis of obtaining value for money consistent with acceptable quality, reliability and delivery considerations.

Lowest price is not the sole determinant of Best Value. Best Value in Council procurement is about selecting the supply of goods, services and works 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, social and environmental 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 works.

### 3.4.2 Approach

The Best Value 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 where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient procurement processes including 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 works being acquired.

### 3.4.3 Role of specifications

Specifications used in tenders and quotations and to be incorporated into contracts are to support and contribute to Council's Best Value objectives through being written in a manner that:

- clearly describes what Council wishes to procure;
- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability; and
- eliminates unnecessarily stringent requirements

### 3.4.4 Contract management

The purpose of contract management is to ensure that Council, and where applicable its clients, receive the goods, services or works 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 adopted Risk Management Strategy and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

Contracts are to be proactively managed in accordance with the contract requirements by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure Council receives Best Value.

Council's Contract Management Manual is available on Council's Intranet. The manual provides guidance and assistance to Council staff in the administration and management of contracts and aims to ensure a consistent approach across Council to these activities.

### 3.5 Methods

Depending on the value of the purchase and the risk associated with the procurement, Council's standard methods for purchasing goods, services and works are as follows; ~~shall be by some or all of the following methods:~~

- purchasing card;
- purchase order following a tender or quotation process from suppliers for goods or services that represent Best Value under directed procurement thresholds;
- in accordance with a formal contract entered into ~~under contract~~ following a tender or quotation process;
- using aggregated purchasing arrangements with other councils, Victorian State Government (e.g. State Purchase Contracts, Whole-of-Government contracts), Procurement Australia, MAV Procurement, or other bodies; or
- other arrangements authorised by Council or the Chief Executive Officer (CEO) on an as 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 a one stage or multi-stage procurement process.

For example, a multi-stage procurement process would typically commence with an Eexpression of interest (EOI-) ~~stage~~ followed by a Rquest for Tender process involving the organisations short listed ~~selected~~ as a consequence of the EOI ~~expression of interest stage~~.

Expressions of Interest (EOI) may be appropriate where:

- Council wishes to consider ahead of formal tender processes such issues as whether those suppliers likely to tender possess the necessary technical, managerial and financial resources to successfully complete the project; the requirement is complex, difficult to define, unknown or unclear;
- the requirement is capable of several technical solutions;
- tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense;
- it is necessary to pre-qualify suppliers and goods to meet defined standards; or
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

### **3.6 Management of Public Tender Submissions**

Council will, when a public tender is conducted:

- Provide a secure facility to receive electronic submissions for tenders;
- Allocate responsibility for managing the facility to a business unit in the organisation;
- Implement a process to inform suppliers of successfully receiving their submission;
- Apply procedures in relation to late submissions that accord with the following protocols:
  - Late submissions are not to be accepted unless the supplier can clearly document to the satisfaction of the Manager, Commercial and Property Services a technical issue with the software Council mandate's to be used to lodge submissions has caused the submission to be late; and
  - The Manager, Commercial and Property Services must also be satisfied that accepting a late submission would not comprise the integrity of the market approach.
  - The Manager Commercial and Property Services may also seek advice from an external probity advisor as required.

#### **3.63.7 Responsible financial management**

The principle of responsible financial management shall be applied to all procurement activities.

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

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

Council seeks to improve its performance by capturing and analysing procurement financial information with an aim to:

- reduce transaction costs;
- make processes more efficient;
- improve management information and visibility of spend;
- increase control and consistency of processes; and
- improve spend compliance.

### **3.73.8 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 activities. For example,

- Council staff must not authorise the expenditure of funds in excess of their procurement authority limit;
- Council staff must not authorise or write multiple purchase orders to avoid the authorisation process requirements or their procurement authority;
- Council staff must not approve expenditure that relates to them personally and 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 at the point where the commitment to purchase goods, services or works has been made i.e. a purchase order must be raised in Finance One when the goods, services or works are ordered and not when the invoice is received; and
- expenditure must be recorded in a timely manner i.e. once the services or works have been completed, or the goods have been received, the appropriate Council officer must ensure that the correct amount is delivered against the relevant purchase order in Finance One.

## **4 PROCUREMENT PROCESSES AND THRESHOLDS**

### **4.1 Process**

Council's procurement processes shall be based on a number of principles as follows:

#### **4.1.1 Strategic Procurement**

Council's procurement processes will be based on the principles of Strategic Procurement. Planning for an individual procurement exercise will include consideration of aggregation opportunities, access to suppliers under existing contracts and analysis of alternative contract models. Guidance, and procurement planning templates, are available from the Commercial and Property Services Department.



#### 4.1.2 Achieving Best Value

The benefits of the procurement are weighed against the costs necessary for the optimum result for Council and the local community. While Council is not required to accept the lowest price, it is required to take into account issues of quality, cost, accessibility of the service and other factors relevant to both the overall objectives and the Act.

Best Value may not mean the lowest price. In terms of the contracting process, Best Value requires Council to apply appropriate weighting for quality and price with as much transparency as is reasonably achievable. In this context price should take into account the whole life cost of the provision as far as is practicable.

In particular, unless otherwise approved by 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 40% as part of the evaluation criteria.

It follows that the delivery of Best Value is dependent on Council's priorities.

Achieving Best Value also requires challenging the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, comparing service provision options against all those available, consulting with key stakeholders and ensuring competition in the open market.

Achieving Best Value shall be the basis of all procurement decisions within Council.

#### 4.1.3 Probity

All Council procurement processes shall be conducted in a fair, honest, open manner with the highest levels of integrity and in the public interest. All suppliers are to be treated fairly in an open and transparent manner (refer also section 2.6).

#### 4.1.4 Accountability and transparency

All Council procurement decisions must be justifiable and demonstrate that a fair, reasonable and transparent process has been followed (refer also section 2.7).

#### 4.1.5 Risk management

Council shall have in place consistent strategies for managing risks associated with all procurement processes.

#### 4.2 Procurement Minimum spend thresholds

Guidelines will be determined from time to time for minimum spend thresholds associated with Council's procurement activities. These will be decided by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

#### 4.2.1 Publicly advertised procurements

The procurement of all goods, services or works with an estimated value equal to or greater than the designated thresholds contained in the Act<sup>2</sup> must be undertaken in a manner to ensure compliance with the Act by public tender. These thresholds may be varied by the Minister at any time. The thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term, and are to be inclusive of GST.

The options for a procurement process compliant with the public tendering requirements contained in the Act include:

- Council running its own publicly advertised tender process;
- Council participating in collaborative tender processes for similar services in conjunction with other councils, including councils in local procurement networks;
- Council appointing an external agent to run a tender process on its behalf. Organisations such as Procurement Australia and MAV (Municipal Association of Victoria) Procurement are active in this area;
- Council accessing Victorian State Government contracts (eg. State Purchase Contracts, Whole-of-Government contracts) that have been made available to Local Government and which Local Government can access without the need to comply with the requirements of Section 186 (1) of the Act; or
- Council accessing contracts for panels of suppliers where those panels have been put in place through a compliant tender process. For example, these panel contracts may have been put in place through a Council run tender process, a tender process run for Council by an external agent or be a Victorian State Government panel made available to Local Government.

However, should the nature of the requirement and the characteristics of the market be such that it is considered a public tender process would lead to a better result for Council, public tenders may also be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

#### 4.2.2 Other procurements

The procurement of goods, services or works with an estimated value less than the designated thresholds contained in the Act<sup>2</sup> may be undertaken using the following procurement methods. As above, these thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term, and are to be inclusive of GST.

When the required number of quotes for any of the purchase values below is sought but not obtained, this information details as to why this has not occurred must be recorded documented as part of the evaluation approval process. If it is considered the quote/s obtained represent Best Value, the procurement may proceed with approval by the relevant staff member with the commensurate

<sup>2</sup> Section 186(1) of the *Local Government Act 1989*. Current thresholds are \$150,000 for the purchase of goods/services and \$200,000 for the purchase of works. These amounts were fixed in an Order in Council dated 5 August 2008 in alignment with State Government threshold levels.

~~procurement authority limit. – Either as detailed below via a “Quotes not obtained in accordance with the Procurement Policy” form or detailed in the final evaluation and recommendation report.~~

- Goods, services or works with a value up to \$3,000.

Generally, low risk and low value purchases up to \$3,000 can be procured without the need for a prior written quotation.

~~However, if~~ a written quotation(s) is obtained the details should be recorded in Objective EDRMS before placing an order.

- Goods, services or works with a value between \$3,001 and \$10,000.

Generally, procurements in this value range should be subject to a competitive process to ensure that Council can demonstrate it has achieved Best Value. ~~Accordingly, it is recommended that~~ Other than as noted in section 4.2.3, at least two written quotations should be ~~sought~~ received before placing an order with the quotation details recorded in EDRMS Objective.

~~It is recognised that there may be situations where the nature of the procurement is such that it is not practicable to obtain any or multiple quotations. For example, one-off, minor, low risk construction type works or technical advice where the work needs to be done immediately or where a contractor has already undertaken previous related works and holds relevant materials (e.g. research), specific knowledge or specialist equipment. Under these circumstances it may be appropriate to continue with the contractor for additional minor related works.~~

~~However,~~ Officers should use best endeavours to ensure that the likely value of the works is known and agreed with the contractor before any commitment to proceed and written estimates or fee proposals obtained for these one-off, minor, low risk assignments are to be recorded in EDRMS Objective. In addition, the reasons behind the procurement approach adopted are to be documented, approved by the relevant staff member with the commensurate procurement authority limit and recorded in ~~either~~ Objective EDRMS and/or as part of the Purchase Order details in Finance One.

- Goods, services or works with a value between \$10,001 and \$50,000.

~~Other than as noted in section 4.2.3,~~ Council will ~~seek~~ receive a minimum of three written quotations by issuing a written Request for Quotation.

~~This requirement must be met wherever practicable. If circumstances are such that this requirement is not practicable, the procurement may still proceed with Director approval by the relevant staff member with the commensurate procurement authority limit and such Director approval must be documented and recorded in EDRMS Objective. A template called “Quotes Not Obtained in Accordance with Procurement Policy” is available in EDRMS and on Council’s Intranet to formally document the Director’s approval. The template is to be used to facilitate a simple and consistent approach to documenting the background and reasons why the required number of quotations has not been obtained~~

~~The quotation offering Best Value must be confirmed by the supplier on its letterhead and the order placed with that supplier.~~

Details of all suppliers contacted and their quotations must be recorded (~~for example, on at least a simple a~~ spreadsheet or similar document) and be maintained in EDRMS Objective.

- Goods or services with a value between \$50,001 and \$149,999 or Works with a value between \$50,001 and \$199,999.

~~Other than as noted in section 4.2.3,~~ Council will ~~seek receive~~ a minimum of three and preferably up to five written quotations by issuing a written Request for Quotation.

~~This requirement must be met wherever practicable. If circumstances are such that this requirement is not practicable, the procurement may still proceed with Director approval by the relevant staff member with the commensurate procurement authority limit and such Director approval must be documented and recorded in EDRMS Objective. A template called "Quotes Not Obtained in Accordance with Procurement Policy" is available in EDRMS and on Council's Intranet to formally document the Director's approval. The template is to be used to facilitate a simple and consistent approach to documenting the background and reasons why the required number of quotations has not been obtained.~~

Public advertising is not required. However, where the estimated value of the goods, services or works approaches the thresholds contained in the Act and it is reasonably foreseeable that the total value of the contract may increase due to, for example, variations, Council staff should consider running a publicly advertised process in the first instance.

Quotations returned by the nominated closing date and time must be evaluated by an evaluation panel of no less than two people and a written evaluation report must be completed, made in favour of the supplier offering the Best Value outcome. 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 procurement authority limit (~~refer section clause 3.7~~). Guidance on the preparation of a written evaluation report can be obtained from Council's Procurement team, Commercial and Property Services Department.

The evaluation and recommendation document including the original suppliers' quotations and the evidence of formal approval and sign-off must be maintained in EDRMS Objective.

- Public advertising.

~~In addition to the above methods, q~~ Quotations may be advertised at the Council staff member's discretion, ~~in addition to the methods above~~. This may occur when ~~a field of potential respondents have not n't~~ been established, an innovative approach is required, the estimated value of the contract is approaching the thresholds contained in the Act or the project has broad appeal that may attract keen prices.

- Quotations Module in Finance One

Council's Finance system includes a module, called Quotations, which links in with current processes and provides staff with an easy to follow process for seeking quotes that ensures compliance with the procurement requirements detailed in this section 4.2.2.

The Quotations module also provides a centralised system to document and record quotes sought and received and easy access to historical information and quotes in Finance One via ObjectiveEDRMS. The successful quote is automatically converted to a requisition in Finance One with minimal extra input required.

- Review of Procurement Activities

Further to section ~~3.73.73.73.6~~, Council's Commercial and Property Services Department undertakes regular checks of procurement activities across the organisation to review compliance with this section 4.2.2 and provide improved management information and visibility of spend, and increased control and consistency of procurement processes. Further, procurement activities are at all times subject to review through Council's audit processes (both internal and external) and fraud control processes (Council's Fraud and Corruption Control Policy).

#### 4.2.3 Pre- approval process - insufficient suppliers identified or urgent works.

Circumstances may exist where, in advance of a procurement with an estimated value less than the designated thresholds contained in the Act, Officers consider the required number of quotations stipulated in section 4.2.2 above cannot be practically obtained. These circumstances may arise where, for example:

- existing technology and systems restrict the ability of other market participants to provide quotations, for example for software licensing or maintenance costs specific to one provider
- analysis and pre-planning has identified only a limited number of market participants able to meet Council's needs
- urgent works are required to be undertaken or urgent technical advice sought
- a contractor has undertaken previous related works and holds materials, specific knowledge or specialist equipment relating to the required works

Any decision to initiate a procurement acknowledging Council will not be able to obtain the number of quotations in section 4.2.2 must be approved in advance as follows and recorded in Objective, giving regard to the need for the procurement to represent Best Value:

- Procurements < \$50,000 - pre-approval by the relevant staff member with the commensurate procurement authority limit
- Procurement > \$50,000 - pre-approval by the relevant Director.

The pre-approval only covers the market engagement phase of the procurement and does not negate the need to complete a proper evaluation followed by the appropriate financial approval prior to engaging the supplier.

Further exceptions to the above requirements may arise, for example, where a specific artist or performer is engaged for a particular event and/or performance. Requests for these

~~exceptions will be noted on the relevant New Supplier form and will be subject to approval by the Manager Commercial and Property Services.~~

~~Exceptions will also apply for uncontested utility company and statutory payments, for example, payments to Yarra Valley Water.~~

~~Where a public tender has been conducted, and a panel of contractors has been established on the basis of prescriptive unit rates and it is Council's desire to manage its risks by allocating work across panel members and utilise any specific expertise held by a panel member, quotations may not need to be obtained from the Panel. Where these circumstances exist, any decision to not seek the required number of competitive quotations shall be documented and recorded in Objective~~

#### **4.2.34.2.4 Use of Supplier Panels**

As documented in the Victorian Local Government Best Practice Procurement Guidelines, the appointment of a panel of suppliers can be used to promote security of supply. As set out in section 4.2.1, panels can be put in place through a number of different processes including Council running its own tender process, a tender process run for Council by an external agent or Council having access to a Victorian State Government panel.

The use of supplier established panels should be transparent as suppliers appointed to the panel will have a reasonable expectation that Council will provide panel members with an equal opportunity to quote for goods, services or works.

Where practicable, when accessing supplier established panel arrangements quotations should be sought consistent with the guidelines set out in section 4.2.2 to ensure that any procurement through panels demonstrates value for money and a competitive process. In addition, if procurement exceeds the thresholds contained in the Act (refer section 4.2.1) then, as a minimum, the quotations should be sought consistent with the guidelines set out in section 4.2.2 for goods or services with a value between \$50,001 and \$149,999 or works with a value between \$50,001 and \$199,999. Some external panels such as the Victorian State Government Construction Suppliers Register also have specific conditions of use that dictate, among other things, the numbers of quotes that must be sought from contractors pre-qualified on the Register. Such requirements must be complied with at all times.

Council officers responsible for the contract management of panel arrangements should be cognisant of day-to-day practicalities and acknowledge that a competitive public process and a value for money assessment has already been undertaken to establish the panel in the first instance. Accordingly, there may be situations where no further benefit is obtained from seeking quotations from the panel. For example,

- small, every-day, low risk, low value works such as those from trade services providers like electricians, plumbers; or
- where the contract with each individual panel supplier includes a comprehensive schedule of rates covering all expected work item types so the costs for packages of work can be accurately determined beforehand by the Council officer without the need for further quotations.

In the above examples, it may be appropriate for the Council officer to allocate work across the individual panel suppliers on the basis of their respective skill sets and capacity at the time to meet Council's required timeframes.

Where the Council officer believes that no further benefit or value will be achieved through seeking quotations from panel members, the approach to be adopted must be approved beforehand by the staff member Manager with the commensurate procurement authority limiter Director, as appropriate. A written record of the approach and the approval must be maintained in ObjectiveEDRMS.

## 5 LEASED ASSETS

Council will at all times maintain a register of current leased assets. This register will be the responsibility of the Manager Commercial and Property Services and will be forwarded to Governance Department on a monthly basis.

As new asset leasing arrangements are entered into the relevant Department Manager is required to provide a list of the new assets to the Manager Commercial and Property Services including salient details of the assets and the associated lease. Further, the Department Manager must also ensure that a copy of the associated lease agreement is filed in ObjectiveEDRMS to ensure that an accurate up-to-date central record of lease agreements is available at all times.

Execution of lease agreements is subject to Council's procurement authority requirements (refer section 6). However, the approval process for lease agreements also requires that they be signed off by the Manager Commercial and Property Services prior to execution.

## 6 PROCUREMENT AUTHORITY

### 6.1 Requirement

Procurement authority refers to the limitations within which a Council officer is permitted to procure goods, services or works on behalf of Council.

The preparation, acceptance (and execution of associated documentation) of tenders, quotations, contracts, purchase orders or purchasing card transactions resulting in the expenditure of funds for the purchase of goods, services or works must only be authorised in accordance with the respective Council officer's procurement authority limit. Any agreed variations to an established contract that result in additional expenditure of funds must also only be authorised in accordance with the officer's procurement authority limit.

A Council officer should only authorise the procurement of goods, services or works where the value of the procurement is within their procurement authority limit and the officer is comfortable and familiar with the type of procurement being managed. If the procurement involves Council taking on a risk or accepting a liability that goes beyond those expressed in Council's standard contract terms and conditions, then the matter should be referred to the appropriate Manager or Director for approval and/or execution. A Council officer must not hesitate in referring the matter to their Manager or Director if the officer has any doubts or concerns about the terms of the procurement.

Council shall maintain a documented scheme of procurement authority limits identifying those Council staff authorised to make procurement commitments in respect of goods, services or works on behalf of Council and their respective expenditure commitment limits.

## **6.2 Procurement authority limits**

Procurement authority limits are defined by reference to Council's Instrument of Delegation to the CEO, the CEO's instruments of sub delegation to members of Council staff, or to Procurement Authority Statements.

Procurement authority limits enable Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency, integrity and accountability. Procurement authority limits also provide confidence to Council and the public that procurement activities are dealt with at the appropriate level.

A register of procurement authority limits will be maintained by the Finance One System Administrator in Information Technology Department.

## **6.3 Delegations to CEO and ELT**

Council has delegated certain functions and approvals to the CEO and Council's Instrument of Delegation to the CEO includes specific limitations on the CEO's authority to approve certain purchases, tender, quotation and contractual processes without prior referral to Council.

The limitations are reflected in the CEO's sub-delegations to members of ELT and these delegations, together with this Policy, set out the procurement authority limits of the CEO and ELT.

The instruments of delegation to the CEO and ELT are reviewed regularly and updated as required.

## **6.4 Procurement authority statements**

Notwithstanding section 6.3, authorisation to expend funds or approve expenditure (whether by purchasing card, purchase order, manual payment requisition, petty cash or otherwise) is approved by the Council staff member's respective Manager and/or Director (depending on the staff member's level in the organisation) and authorised by the Chief Financial Officer.

Council staff, other than the CEO and ELT, who apply for access to Council's corporate purchasing system or a purchasing card, will receive a Procurement Authority Statement which clearly outlines the extent of their authority to make procurement commitments in respect of goods, services or works on behalf of Council. Procurement Authority Statements will be issued by the Commercial and Property Services Department, normally as part of the initial financial systems training provided to new staff.

# **7 INTERNAL CONTROLS**

Council will install and maintain a framework of internal controls over procurement processes, including regular internal audit review, which will ensure:



- more than one person is involved in and responsible for a transaction end to end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

## 8 COMMERCIAL INFORMATION

Procurement activities 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.

## 9 RISK MANAGEMENT

### 9.1 General

Risk Management is to be appropriately applied at all stages of procurement activities 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 works.

### 9.2 Supply by contract

The provision of goods, services and works by contract potentially exposes Council to risk.

Council will minimise its risk exposure by measures such as:

- use of standard-form contracts where appropriate. Council's standard-form contracts are provided by Council's Legal Services Department. Initial enquiries regarding Council's current standard-form contracts should be directed to the Commercial and Property Services Department (refer section 9.4);
- ensuring contracts are updated where appropriate to include current, relevant clauses;
- use of or reference to relevant Australian Standards (or equivalent), where appropriate;
- referring specifications to relevant experts for review, where considered appropriate;
- evaluating and selecting contractors whose operations are aligned with Council's specified occupational health and safety standards and systems of work; and who are appropriately experienced, licensed, qualified and have the required levels of appropriate insurances (workers compensation, public liability, professional indemnity);

- requiring security deposits, where appropriate;
- requiring contractual agreement before allowing the commencement of work; and
- effectively managing the contract including monitoring and enforcing performance.

### 9.3 Health and safety considerations

Council procurement shall consider associated health and safety risks associated with goods, works and services ~~issues~~ and these considerations shall include the following as appropriate:

- Council's ~~relevant~~ policies, ~~and~~ procedures and systems related to OH&S contractor management;
- ~~the~~ need to ensure the health and safety of employees, contractors, visitors and the public at all times during Council operations;
- evaluation and verification of health and safety documentation related to the goods, services or works to be procured. This documentation may include manufacturers' and/or suppliers' risk assessments, process safe work method statements, specified regulatory requirements, equipment service records, substance safety data sheets, and any other documentation required by Council as a result of associated ~~its~~ risk assessments conducted in the context of Council's specific workplace requirements;
- selection of contractors whose safe management systems and operations are suitably aligned with the determined risk rating and hazards associated with the goods, services and/or works to be procured; and
- effective management including monitoring of the contract.

### 9.4 Contractual terms and conditions

All contractual relationships must be documented in writing and it is strongly recommended that these be based on Council's standard terms and conditions. These standard terms and conditions are written to protect Council's interests and ensure Council is not exposed to unacceptable risks.

Council has a number of different standard-form contracts to cover different types of procurement including annual supply services, construction, consultancy, information technology (IT) products. Typically these will be either contract documents provided by Council's Legal Services Department or contract documents licenced for use by Council from third party organisations. The latter instance would, for example, include the Australian Standard forms of construction contract.

To protect the interests of Council, contractual terms and conditions must be settled in advance of any commitment being made with a supplier. To facilitate this, Council's proposed contractual terms and conditions must be issued as part of any request for quotation or tender documentation to ensure that potential suppliers are fully aware of the contractual terms and conditions that will be the basis of any contractual relationship between the parties.

#### 9.4.1 Use of other than Council's standard contractual terms and conditions

It is recognised that there may be occasions when it is appropriate to consider changes to Council's standard terms and conditions or the use of a supplier's own standard terms and conditions. For example,

- where elements of Council's standard terms and conditions may not be well suited to a particular procurement or may be of major concern to a supplier;
- where Council's standard levels of insurance may not be commensurate with the scope of the work required; or
- use of a supplier's own standard terms and conditions for IT software based solutions including licensing agreements or equipment lease agreements where Council may rely on a leasing company's Master Lease Agreement.

Under these circumstances, Council staff may consider alternative terms and conditions provided that any such changes do not adversely impact Council's interests or expose Council to substantial or unacceptable risks. Use of alternative terms and conditions must be approved by the relevant Director. Any consideration must take into account issues including the nature of the specific work to be undertaken, an assessment of the possible risks to Council associated with that work and any possible flow-on consequences that may arise from the work. For example, faulty design work could have major consequences for subsequent construction work based on that design.

Council staff must not agree to any changed contractual terms and conditions without prior written approval of their Director. In seeking this approval, staff must undertake the above-mentioned assessment and, in the event that the Director supports accepting changed contractual terms and conditions, the assessment is to be documented and forwarded to the Manager Commercial and Property Services for review. The Manager Commercial and Property Services may recommend further assessment such as seeking specialist advice from risk management and/or Legal Services. The Director shall be responsible to undertake any additional assessment recommended.

In the event that there are differing opinions as to the acceptability of any proposed contractual terms and conditions or the level of assessment required, the final decision will rest with the Director in question.

## 10 ENDORSEMENT

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to the relevant Director or CEO level for prior approval.

## 11 DISPUTE RESOLUTION

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

## 12 PERFORMANCE MEASURES AND CONTINUOUS IMPROVEMENT

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs may be benchmarked externally, where appropriate. Internal service standards may also be agreed within Council where appropriate and performance against these targets measured and reviewed regularly to support continuous improvement.

The performance measurements developed will be used to:

- highlight trend and exceptions where necessary to enhance performance;
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and
- facilitate programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

## 13 CORPORATE SOCIAL RESPONSIBILITY

Corporate social responsibility is about taking positive action to demonstrate Council's commitment to the local community and the environment on which it impacts. Council aims to maximise the benefits of the services it provides across the community and minimise the negative aspects of its activities.

Council integrates corporate social responsibility into its organisational policies and practices through initiatives such as social procurement, sustainability and diversity.

## 14 SOCIAL PROCUREMENT

Social procurement involves using procurement processes and purchasing power to not only deliver efficient goods/services/works but also to generate positive social outcomes.

Council understands the benefits that social procurement can generate by building on initiatives already undertaken by Council in enhancing sustainable and strategic procurement practice, further enabling procurement to effectively contribute towards building stronger communities and meeting the social objectives of Council.

It is recognised that social procurement objectives may have other implications such as financial. Accordingly it is important that social procurement objectives are determined prior to the associated procurement to ensure they are appropriately considered during that procurement process.

Further details and examples of social procurement initiatives are available in the Local Government section of the Department of Transport, Planning and Local Infrastructure website at the following link: <http://www.dtpli.vic.gov.au/local-government/strengthening-councils/social-procurement>.

## 15 SUSTAINABILITY

### 15.1 General

Council is committed to reducing its environmental impacts and operating in a socially and environmentally sustainable manner. To work towards this, Council will monitor and report on Council activities and programs that have an impact on, or contribute to the environment. This includes but is not limited to:

- waste management;
- recycling;
- energy management;
- emissions management;
- water conservation;
- building design; and
- environmentally preferable procurement.

### 15.2 Environmentally sustainable procurement

Council is committed to adopting a green procurement approach by supporting the principles of sustainable procurement. Council prefers to purchase environmentally preferred products whenever they achieve an equivalent function. Assessment of Best Value includes consideration of the environmental impacts and credentials of goods, services and works. Within this context Council will therefore consider the following environmental sustainability criteria:

- Reduce, reuse, and recycle
  - avoid unnecessary purchase of goods, services or works through identifying ways to carry out a function or task without using materials that generate waste (e.g. sending information via email instead of paper) and checking stores and other Departments for excess goods.
  - select products that reduce the amount of materials required such as packaging and consumables.
  - seek to re-use items where possible and extend the useful life of products and equipment through maintenance and repair or re-allocation.
  - seek to buy recycled/part-recycled products that optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.
- Minimise energy consumption and greenhouse gas emissions

- ~~Select-select~~ electrical and gas powered products which are energy efficient. For all product categories covered under the Australian Government's Equipment Energy Efficiency rating scheme (e.g. televisions, refrigerators, dishwashers, computers/monitors, air conditioners, washers/dryers) prefer products that are within one star of best available rating. Refer <http://www.energyrating.gov.au/>
- select fuel efficient products (i.e. powered by petrol, diesel or bottled gas).
- in addition to operational energy efficiency, consider the energy and water requirements of a product during its production, transportation and eventual disposal.
- Minimise habitat destruction
  - purchase paper and wood products obtained from recycled, plantation, salvaged or renewable sources.
- Minimise toxicity
  - purchase materials and products (e.g. Paints, cleaning products, herbicides, asphalt, building materials) that minimise or eliminate use or release of toxic substances that can affect human health and pollute water, land or air at any stage of their life cycle.
- Minimise use of potable water
  - select products that conserve water or use water in an efficient way. For products covered under the Australian Government's Water Efficiency Labelling and Standards (WELS) scheme (e.g. Taps, toilets/urinals, dishwashers) prefer products that are within one star of best available. Refer <http://waterating.gov/>
- Green the supply chain
  - develop tender, quotation and contract specifications that encourage suppliers to adopt good environmental and management practices that also respect the rights of all employees and the local community.
- Use of Fairtrade products
  - where practicable, Council will procure certified products (eg. tea, coffee, chocolate, garments) which support farmers, their families and communities in developing nations in receiving more stable and secure incomes, better working conditions, and enhanced investment in quality and local environmental sustainability.

## 16 DIVERSITY

Promoting equality through procurement can improve competition, value for money, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.

## 17 SUPPORT OF LOCAL BUSINESS

Council supports buying goods and services from local business and/or business employing Boroondara residents. In assessing Best Value to be delivered by competing competitive offerings, all else being equal, Council will support such local businesses.

Council also acknowledges its obligations under s186 (6) of the Act to, whenever practicable, give preference to contracts for the purchase of goods and services manufactured or produced in Australia or New Zealand. In assessing Best Value to be delivered by competing competitive offerings, Council will support products supplied by Australian owned enterprises.

## 18 CONTINUAL IMPROVEMENT

Council is committed to continuous improvement and will review this Procurement Policy both in accordance with the Act, and as necessary to ensure that it continues to meet its wider strategic objectives.

## 19 POLICY RESPONSIBLE OFFICER AND OTHER CONTACT DETAILS

Manager Commercial and Property Services is the designated responsible officer of this Policy. The responsible officer coordinates the implementation, maintenance and review of this Policy and ensures that stakeholders are aware of their accountabilities.

For further information or queries or feedback on this Policy, please contact the above responsible officer via email [managercommercialpropertyservices@boroondara.vic.gov.au](mailto:managercommercialpropertyservices@boroondara.vic.gov.au) or telephone (03) 9278 4444.

### 19.1 Other contact details

Other relevant contact details referred to in this Policy are as follows:

- Protected Disclosure Coordinator  
Manager Governance  
Telephone:(03) 9278 4444  
Email: [protecteddisclosure@boroondara.vic.gov.au](mailto:protecteddisclosure@boroondara.vic.gov.au)
- Chief Executive Officer  
Mail: Private Bag 1, Camberwell, Vic 3124
- STOPline  
Telephone: 1300 304 550  
Email: [Boroondara@stopline.com.au](mailto:Boroondara@stopline.com.au)  
Mail: City of Boroondara c/o The STOPline, Locked Bag 8, Hawthorn, Vic 3122
- Independent Broad-based Anti-corruption Commission (IBAC).  
Telephone: 1300 735 135  
Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)
- Manager Commercial and Property Services  
Telephone: (03) 9278 4444